

PLANNING COMMISSION AGENDA
CITY OF NEWPORT BEACH
COUNCIL CHAMBERS - 3300 NEWPORT BOULEVARD
Thursday, July 21, 2011
Regular Meeting – 6:30 p.m.

CHARLES UNSWORTH
Chair

MICHAEL TOERGE
Vice Chair

BRADLEY HILLGREN

ROBERT HAWKINS

FRED AMERI

KORY KRAMER

JAY MYERS

Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:

KIMBERLY BRANDT, Community Development Director

JAMES CAMPBELL, Principal Planner

LEONIE MULVIHILL, Assistant City Attorney

GREGG RAMIREZ, Senior Planner

TONY BRINE, City Traffic Engineer

JAIME MURILLO, Associate Planner

JAY GARCIA, Senior Planner

MARLENE BURNS, Administrative Assistant

NOTICE TO THE PUBLIC

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. Staff reports or other written documentation have been prepared for each item of business listed on the agenda. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at (949) 644-3200. The agendas, minutes and staff reports are also available on the City's web site at: <http://www.newportbeachca.gov>.

This committee is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally either three (3) or five (5) minutes per person.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or lbrown@newportbeachca.gov).

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

APPEAL PERIOD: Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

NEWPORT BEACH PLANNING COMMISSION AGENDA
Council Chambers – 3300 Newport Boulevard
Thursday, July 21, 2011
REGULAR MEETING
6:30 p.m.

- A. CALL TO ORDER**
- B. PLEDGE OF ALLEGIANCE**
- C. ROLL CALL**
- D. PUBLIC COMMENTS**

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three minutes. Before speaking, please state your name for the record and print your name on the tablet provided at the podium.

- E. REQUEST FOR CONTINUANCES**
- F. CONSENT ITEMS**

ITEM NO. 1 Minutes of June 23, 2011

ACTION: Approve and file.

ITEM NO. 2 Minutes of July 7, 2011

ACTION: Approve and file.

G. PUBLIC HEARING ITEMS

ALL TESTIMONY GIVEN BEFORE THE PLANNING COMMISSION IS RECORDED. SPEAKERS MUST LIMIT REMARKS TO THREE MINUTES ON ALL ITEMS. (Red light signifies when three minutes are up; yellow light signifies that the speaker has one minute left for summation.) Please print only your name on the pad that is provided at the podium.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Community Development Department, Planning Division located at 3300 Newport Boulevard, during normal business hours.

ITEM NO. 3 Bowman Variance (PA2011-099)
403 Jasmine Avenue

SUMMARY: Request for approval of a variance to allow the construction of a 6-foot-high deck and 42-inch-high guardrail (9-foot-6-inch total height) that would encroach 5 feet into the required 5-foot rear alley setback. The alley is unimproved and is not utilized for vehicular access.

CEQA

COMPLIANCE: If the project is approved, the project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction). This exemption allows for the construction of apartments, duplexes, and similar structures designed for no more than six dwelling units. The subject deck is accessory to the two-unit residential condominium structure currently under construction.

If denied, projects which a public agency rejects or disapproves are not subject to the California Environmental Quality Act ("CEQA") review, pursuant to Section 15270 of the CEQA Guidelines.

- ACTION:**
- 1) Conduct a public hearing; and
 - 2) Adopt Resolution Adopt draft resolution approving Variance No. VA2011-008, subject to findings and conditions.

ITEM NO. 4 Monrovia Ave Amendments (PA2011-082) and (PA2011-105)
1537 Monrovia Avenue and 1539 Monrovia Avenue

SUMMARY: Amendments to the General Plan and Zoning Map to change the designation of the subject properties from Multi-Unit Residential [(RM (2420)] to IG 0.75 FAR (General Industrial) land use designations; and to change the zoning designation from Multi-Unit Residential (RM) to Industrial 0.75 FAR (IG 0.75) zoning district. The amendments were initiated by the property owners who seek to continue the existing nonconforming industrial uses of the properties. The properties are currently developed with a light industrial use buildings, and no new land uses or development is proposed at this time.

CEQA COMPLIANCE: The proposed amendments are exempt since they do not entail any significant alteration to the subject property and will bring the General Plan Land Use and Zoning District designations consistent with the present use of the subject property. The sites are presently developed and no development is proposed at this time for either property involved, however, future development of the existing property and structures consistent with the proposed IG designation would be categorically exempt under Section 15302 of the California Environmental Quality Act (CEQA) Guidelines – Class 2 (Replacement or Reconstruction).

- ACTION:**
- 1) Conduct a public hearing; and
 - 2) Adopt Resolution No. ____ (Attachment No. PC 1) and attached Exhibits recommending the City Council:
 - Approve General Plan Amendment No. GP2011-005; and
 - Approve Code Amendment No. CA2011-008.
 - 3) Adopt Resolution No. ____ (Attachment No. PC 2) and attached Exhibits recommending the City Council:
 - Approve General Plan Amendment No GP2011-006;
 - Approve Code Amendment No. CA2011-009.

H. NEW BUSINESS

I. STAFF AND COMMISSIONER ITEMS

ITEM NO. 5 Community Development Director's report.

ITEM NO. 6 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

ITEM NO. 7 Request for excused absences.

ADJOURNMENT

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, June 23, 2011
REGULAR MEETING
6:30 p.m.

A. CALL TO ORDER - The meeting was called to order at 6:30 p.m.

B. PLEDGE OF ALLEGIANCE – Led by Chairperson McDaniel

C. ROLL CALL

PRESENT: Ameri, Eaton, Hawkins, Hillgren, McDaniel, Toerge and Unsworth

ABSENT (EXCUSED): None.

Staff Present: Kimberly Brandt, Community Development Director, James Campbell, Principal Planner, Gregg Ramirez, Senior Planner, Leonie Mulvihill, Assistant City Attorney, Tony Brine, City Traffic Engineer, Jaime Murillo, Associate Planner, and Marlene Burns, Administrative Assistant

D. RECOGNITION OF CHAIRPERSON EARL MCDANIEL AND COMMISSIONER BARRY EATON FOR THEIR DEDICATION AND YEARS OF SERVICE ON THE PLANNING COMMISSION

Kimberly Brandt, Community Development Director, James Campbell, Principal Planner, and the Commissioners spoke briefly about Commissioner Barry Eaton's and Chair Earl McDaniel's accomplishments and thanked them for their dedication and years of service on the Planning Commission.

E. PUBLIC COMMENTS

Dan Purcell, resident, expressed his concerns regarding excessive trash and suspicious activity in front of derelict properties in Corona Del Mar, presented the Commission with pictures of the dirt and debris within the property, and requested that the properties be cleaned up.

F. REQUEST FOR CONTINUANCES – None.

G. CONSENT ITEMS

ITEM NO. 1 Minutes of June 9, 2011

Motion made by Commissioner Ameri and seconded by Vice Chair Unsworth, and carried (5 – 0) with two abstentions to approve the minutes, as corrected.

AYES: Ameri, Eaton, McDaniel, Toerge and Unsworth

NOES: None.

ABSENT: None.

ABSTAIN: Hawkins and Hillgren

H. PUBLIC HEARING ITEMS

ITEM NO. 2 Mariner's Pointe - (PA2010-114)
100 – 300 West Coast Highway

The applicant is seeking a General Plan Amendment (GPA) to accommodate the development of a 23,015-square-foot, two-story commercial building and a three-story parking structure. The following applications are requested or required in order to implement the project as proposed: General Plan Amendment No. GP2010-009, Code Amendment No. CA2010-009, Site Development Review No. SR2010-001, Conditional Use Permit No. UP2010-024, Variance No. VA 2010-004, Parcel Map No. NP2010-008 and Traffic Study No. TS2011-001.

Commissioner Ameri recused himself from this item and left the dais as he currently works at RBF, the company which completed the traffic study for the project.

A staff report and PowerPoint presentation were provided by Associate Planner Jaime Murillo.

Associate Planner Murillo stated that the project implements the City's goal of improving the Mariner's Mile Corridor, and results in the redevelopment of a dilapidated property. He stated that the City Traffic Engineer has reviewed the parking management plan and that the plan will function adequately.

In response to questions from the Commission, Associate Planner Murillo clarified that the Mariner's Mile Strategic Vision and Design Framework requires a minimum four (4) foot landscape strip from the back of the sidewalk and should have a row of palm trees and hedges to add to the continuity of landscaping along Mariner's Mile Corridor and that the project is consistent with the Mariner's Mile framework related to landscaping.

As proposed there is approximately a 700-square-foot outdoor patio for outdoor dining located within the right-of-way, and Staff is recommending that review of the outdoor patio be deferred until the restaurants actually come in with solid proposals so that Staff can understand the specific operational characteristics and operational hours. Until such time Staff is recommending that the portion of right-of-way be landscaped consistent with the approved landscape plan.

Staff indicated that parking was difficult to determine at this time given that the project is a "shell" building and the specific restaurants are not known. A fairly conservative estimate was made with regard to net public area of the restaurants being sixty (60%) percent of the total gross floor area and there is some flexibility with the project once the restaurants do come in. If there is an increase in parking demand, Staff will be looking to limit the net public area of those restaurants concurrent with the reduction of parking needed. In regard to additional off-site parking and based on the parking demand study, the project only needs nine (9) off-site parking spaces, but the applicant is able to lease 20 parking spaces from the medical office complex. In the future, there may be opportunities on the adjacent commercial properties to lease additional parking spaces should those property owners be willing to do so.

A letter of intent was received from the owner of the medical office building at Dover and Cliff Drive, stating that he is willing to provide the applicant with off-site parking for the duration of the 11 years and, if their lease is extended, the owner would be willing to provide an extension to the off-site parking agreement as well. If the off-site parking agreement is approved, the applicant will be required to enter into an off-site parking agreement with the City and the off-site parking owner ensuring that those parking spaces are available.

The delineation of the suites on the floor plans can change since they are just illustrative and no uses have been proposed yet. Condition 19 in the recommended Conditions of Approval should read that "all employees are required to park on-site or at the approved off-site parking lot unless otherwise approved." Based on the proposal from the applicant indicating that the restaurants will be high-quality, low-turnover restaurants, Staff used a parking ratio of one (1) parking space per 50 square feet of net public area and clarified that the Conditional Use Permit states that uses are permitted, or conditionally

permitted, consistent with provisions of the Zoning Code and that commercial parking structures do not count toward the total floor area of any commercial project.

Discussion ensued between Associate Planner Murillo, the Commission, and Staff regarding adequate signage for the entrance and exit-only driveways, location of the valet stand, turning radius conditions for passenger vehicles, grade of the driveway, handicapped spaces on each parking level, size of the parking stalls and Staff's recommendation in Condition 3 regarding the outdoor patio area and the parking structure dimensions.

Tod Ridgeway, representing the applicant VBAS, thanked Commissioner Eaton and Chair McDaniel for their dedication and years of service on the Planning Commission. Mr. Ridgeway, noted that his personal residence is adjacent to the proposed project. He further stated that the Mariner's Mile Association was in support of the project, that the project complies with all components of the Mariner's Mile overlay, and that the project supports the demand for restaurant use on that site. Mr. Ridgeway stated commented on the parking components of the parking structure, and that the Environment Impact Report did not identify any negative impacts. All elements of the design were included to recognize and mitigate traffic, noise, and light impacts. He stated that after meeting with the neighbors, the roof heights were lowered and a new roof was placed over the parking structure. The roof was designed to not change the overall look of the project. In regard to proposed tenants, Winston Jewelers will occupy a suite on the ground floor, and restaurant and various other uses will occupy the remaining suites on both levels .

It was noted for the record that Mr. Ridgeway was a former Councilmember. Mr. Ridgeway also affirmed that the developer would quickly "bulldoze" and clean up the property if the project is approved.

In terms of the permanency of the CalTrans encroachments, Mr. Ridgeway stated his confidence that the landscape areas are in the project in perpetuity. Mr. Ridgeway clarified that the City and City Council are working on relinquishment of a highway in front of the property, but one of the issues is not putting the two bridges into the Capital Improvement Plan. He mentioned that it is not anticipated Caltrans would need additional right-of-way adjacent to the project site. He does not want to see a freeway or widening of the highway to go through that area and does not predict that Dover will be expanded.

In response to an inquiry from the Commission, Mr. Ridgeway stated he requests approval of the project as submitted, along with the incremental increase in square footage which causes no impacts, and that he and the developer are not interested in redesigning the project.

Todd Stoutenborough, Architect representing the applicant, utilized a PowerPoint presentation and spoke to specific details about the proposed project.

Due to illness, Commissioner Eaton excused himself from the remainder of the meeting.

In response to questions from the Commission, Mr. Stoutenborough clarified that the height of the façade in regards to the parking structure is approximately 28 feet and stated that cars will not be seen because they are behind the wall, the view of the water will not be impaired, the entry way into the parking structure will be hard to miss because it is approximately 30 feet wide and 14 feet high, if a person missed the first entry into the parking structure they can still enter through the exit driveway because of the large space and mentioned that the height of the palm trees do not obscure the visibility of street signs.

In response to questions from the Commission concerning parking management, Kynn Knight, Sunset Parking, clarified that there is guest parking until 5:00 p.m. on level one (1) of the parking structure. In response to questions from the Commission, Mr. Knight explained that the parallel valet parking spaces are only intended for peak summer months when the restaurants are extremely busy and an attendant

would be stationed with the cars when parked behind handicapped stalls. The parallel parking stalls are included in the total number of parking stalls within the parking structure.

Discussion ensued between Mr. Stoutenborough, Mr. Knight, the Commission and Staff regarding the potential danger of having parallel parking spaces within a parking structure and how it could constrict and slow down the circulation if a fire were to occur, if the handicapped parking stalls on level three (3) are employee-only are there enough handicapped stalls within the parking structure based on its square footage, the City rule regarding valet parking which states that you can move one car to get one car, whether a fire-truck can be pulled into level one (1) of the parking structure and the total number of valet attendants needed to run the parking structure effectively.

Chair McDaniel opened the Public Hearing.

Cameron Merage, resident, expressed his concerns regarding impairment of views of the bay, the height of the proposed three (3) story parking structure is an issue in regards to employees and customers loitering on the roof top, the parking structure will decrease the privacy of the adjacent backyards, the odor and fumes of food from the restaurants will constantly blow into the adjacent properties, the project will create a significant shadow over the rear end of the property making it nearly impossible for any vegetation and ground cover to grow and will result in unstable areas because the sun will be prevented from hitting the lowest areas of the adjacent properties, issues with the retaining wall and zero lot line variance, noise concerns from the restaurants and outdoor dining patio and stated that the addition of a roof on top of the parking structure will not completely block out all of the noise as proposed.

Maury Dewald, resident, stated that it is a great project except it is in the wrong location and expressed his concerns regarding the variances, the parking management plan, potential traffic in front of the parking structure, and the size of the project.

Mike Hilford, resident, expressed his concerns regarding light pollution issues, and that the actual height of the building will be much greater than what is being proposed.

Laura Tarbox, private fiduciary representing an adjacent property, read a letter of concern from a potential buyer and stated that her property fell out of escrow again because potential buyers have concerns regarding the impact of this project and rumors that there are going to be many variances made that will increase the height and size of the project beyond what would normally be allowed, expressed her concern that the project is much bigger than what the space permits and mentioned her confusion regarding easements, the elimination of the five (5) foot setback and the need to encroach on adjacent property.

Dave Kohn, resident, stated that the projects' proposed architecture is very beautiful but feels that the project requires overbuilding in that area and expressed his concerns regarding the number of assumptions being made, variances in heights and square footage, elimination of the setback, overflow parking at the medical office building, lack of solid restaurant proposals and potential late night noise from the restaurants.

Dan Purcell, resident, expressed his concerns regarding how the restaurants plan on getting rid of waste, grease and food product, asked for a brief description of how the dumpster area will be accessed by the restaurants and what vehicles will be accessing the waste and picking up the trash.

Michael Robertson, resident, expressed his concerns regarding traffic because Mariner's Mile is already a congested area, stated that the project is extremely ambitious but some changes can be made that will still yield the profits that the present owners desire, inquired as to whether the parking structure exit will be right-turn only, mentioned concerns regarding noise and odor from the restaurants, the precedent set by

the project being built in such a congested area, impacts on the quality of life for residents in that area, stated that he is opposed to the project as it stands but is encouraged by the thought given to developing that area and commended everyone for their hard work and time put into this project.

Tom Lally, resident, stated that the noise factor will disturb the tranquility of the residents and their properties, expressed his concerns regarding noise from the parking structure and outside dining patio and stated that this project is intolerable for residents living in Newport Beach.

Ron Hendrickson, resident, stated that it is a beautiful project but it is over-scaled for the size of property in question, expressed his concerns regarding the project owners' lack of experience as a shopping center operator and the fear that the project might not be successful, actual access into the project from the street, the right-turn only exit requiring customers to travel a far distance in order to make a u-turn if they want to head east-bound, mandatory valet parking, the number of conditions that raise questions about the convenience of getting to the shopping center and suggested that the Planning Commission take into account the circulation situation getting to and from the shopping center.

Jack Geerlings, resident, stated that he is opposed to the Mariner's Mile project as presented because the project is way over-built, the parking structure takes up more than half of the property cramping the retail space into the east part of the property, stated that if the parking structure were underground the project would not be as big of an issue as it is now, the parking structure exceeds the 31 foot height limit, noise from the parking structure, the proposed roof covering the parking structure is only partial leaving the front of the parking structure open allowing noise to filtrate out, granting of the five (5) foot variance setback should not be allowed because it constitutes a special privilege inconsistent with the limitations on the other properties, traffic concerns including serious accidents that may occur due to the three lanes merging into two, vehicles exiting the right-turn only exit and the u-turns customers must make in order to head east-bound and the fact that these massive building structures will reduce the property values on adjacent homes on the hill.

Chair McDaniel closed the Public Hearing.

In response to public hearing comments and concerns, Mr. Ridgeway spoke regarding the requested height increase of the parking structure, a letter referencing the specific design of the project, stated that the variance goes into a cliffside on the projects' property, addressed noise concerns, stated that they have protected the view so there is no view blockage, stated that the hard surfaces on the back of parking structure will not allow for noise to emanate from the parking structure, addressed traffic concerns mentioning the highway allows for u-turns and capture intervals on the traffic signals at Dover and the Bay Club, stated that this project will not set a negative precedent due to the uniqueness of the property, stated that there are some issues with the way the codes are drafted and written, stated that the parking structure will attenuate noise and light impacts, stated that this is a high-end project that is much needed in Mariner's Mile by providing new jobs and redevelopment to the area, underground parking is not a consideration and stated that the front portion of the parking structure is not covered over a ramp but noise can be controlled because the third floor is employee and valet parking.

Mr. Stoutenborough addressed lighting issues in the parking structure, noise emanating from the north side of the parking structure and the mechanism that will eliminate fumes and odor from the restaurants' kitchens.

Discussion ensued between Bob Matson, RBF Consulting (Traffic Impact Analysis Consultant), John Vang, Environmental Consultant (The Planning Center), Mr. Ridgeway, Mr. Stoutenborough, the Commission and Staff regarding the 4-hour concrete wall enclosing the parking structure which would eliminate any light or noise from escaping the structure, the proposed color and materials to be used for the roof of the parking structure, site plan for the third level of the parking structure, a potential light-

colored roof for the parking structure, the varying roof heights of the parking structure, westerly elevation of the parking structure, whether or not the roof covers the ramp, the zero-lot line variance, the shadow and aesthetic impact because of the size of the structure on the adjacent properties, the potential precedent this project might set in Mariner's Mile, the project trip assignment, approximately 48 trips turning in and 36 trips exiting the parking structures' driveways in aggregate at p.m. peak hours, the lack of detail provided for the parking structures' roof, the partial roof design, the fact that the parking structure requires its own discretionary action, review and public hearing because it is adjacent to residential homes, the fact that this project is seeking variances from the Zoning Code, potential impacts on residents, the narrowness of the property, and the project owners' lack of experience as a shopping center operator.

Commissioner Toerge stated his concerns regarding the roof and that the level of detail provided in the application or verbally by the applicant was not adequate. He also expressed his concerns regarding locating a parking structure adjacent to residential housing, placing the structure thirty (30) feet closer to residents and installing a partial roof. Mr. Toerge further stated that the dedication of the property was sold to CalTrans for financial compensation to the property owner in consideration of the negative impacts on the future development of the property. He stated that the certain dimensions of the project as being "static," such as the existing dedication to CalTrans and noted his concerns in approving this project and forwarding it to the City Council. His major concern was the parking structure and the impacts it will create and that he could not support approval of the project as currently presented by the applicant.

Commissioner Hillgren expressed his thanks to staff and the applicant for their documentation of this issue. He further stated that the general CEQA issues have primarily been addressed, although the project as presented in terms of traffic, pedestrians, and patronage issues could create liability for the applicant and for the City. He stated that there is an opportunity to get to .5 FAR, and to push it to a .7, would require the applicant making a "more compelling" case. Part of his difficulty in making findings for approval of the project were the fact that the majority of future tenants were unknown and this provided a challenge in affirming the future success and operability of the project.

Commissioner Hillgren made a motion to deny Items 1 – 7 as presented and to deny approval of the project.

Commissioner Hawkins seconded the motion with a suggested amendment to "deny without prejudice." This would allow the project to be resubmitted earlier than allowed by the Zoning Code.

Principal Planner Campbell stated that a "denial without prejudice" could allow the applicant to resubmit the project as soon as the following day.

Chair McDaniel stated that during the public hearing, the applicant's representative, Mr. Ridgeway, stated that the applicant was not interested in a redesign of the project. Mr. McDaniel stated that the project requires significant changes.

Commissioner Hillgren amended his motion to "deny approval of the project without prejudice".

Assistant City Attorney Mulvihill clarified that a motion to "deny without prejudice" gives the applicant the ability to resubmit the same project with no limitation in terms of subsequent applications and no limitation on the time frame for re-submittal.

Commissioner Hillgren stated that the project, as submitted, requires significant change.

Assistant City Attorney Mulvihill noted that the Community Development Director would notice the Planning Commission as to the future re-submittal of the project and whether it was the same or substantially the same as currently presented.

Commissioner Hawkins stated that this particular site needs a similar-type project; however, he has serious concerns regarding the feasibility of the project as submitted.

Community Development Director Brandt affirmed that it was the maker of the motion's intent to "deny without prejudice", which would not set limitations, such as the one (1) year requirement, as to when the applicant can resubmit the project.

Commissioner Hawkins acknowledged that the site is challenged, underdeveloped and underutilized and that there is support for redeveloping the entirety of Mariner's Mile. He would prefer to see a newer and "somewhat reduced" project submitted.

Chair McDaniel stated that he would support the motion to "deny the project without prejudice." He further noted that a project is needed at that particular site; however, the project as proposed this evening left too many unanswered questions as to the actual successful operations of the project when completed. He stated his concerns regarding the lack of identification of long-term offsite parking, if it was determined to be necessary and that in his experience as a Planning Commissioner, this project required too many different items (deviations) to be approved.

Motion made by Commissioner Hillgren and seconded by Commissioner Hawkins, and carried (5 – 0, one recusal, one absence) to deny the item without prejudice.

AYES: Hawkins, Hillgren, McDaniel, Toerge and Unsworth
NOES: None.
ABSENT: Ameri (recused), Eaton (excused)
ABSTAIN: None.

Chair McDaniel affirmed that the Mitigated Negative Declaration is not necessary because of the previous vote.

I. NEW BUSINESS – None.

J. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 Community Development Director's report.

None.

ITEM NO. 7 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

Commissioner Toerge asked whether any progress has been made on State legislation regarding solar panels. Staff explained that the draft solar regulations and Planning Commission recommendations would be going before the City Council later this summer.

ITEM NO. 8 Request for excused absences.

None.

ADJOURNMENT - The Planning Commission adjourned in honor of Susan M. Trager at 10:12 p.m. to 6:30 p.m. on July 7, 2011.

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, July 7, 2011
REGULAR MEETING
6:30 p.m.

A. CALL TO ORDER - The meeting was called to order at 6:30 p.m.

B. PLEDGE OF ALLEGIANCE – Led by Commissioner Hawkins

C. ROLL CALL

PRESENT: Ameri, Hawkins, Hillgren, Kramer, Myers, Toerge and Unsworth
ABSENT (EXCUSED): None.

Staff Present: Kimberly Brandt, Community Development Director, Gregg Ramirez, Senior Planner, Tony Brine, City Traffic Engineer, Leonie Mulvihill, Assistant City Attorney, Erin Steffen, Planning Technician, Fern Nueno, Assistant Planner, Javier S. Garcia, Senior Planner, Makana Nova, Assistant Planner, and Marlene Burns, Administrative Assistant

D. ELECTION OF OFFICERS

Motion made by Commissioner Toerge and seconded by Commissioner Hawkins, and carried (7– 0) to elect Charles Unsworth as Chair, Michael Toerge as Vice Chair and Bradley Hillgren as Secretary.

AYES: Ameri, Hawkins, Hillgren, Kramer, Myers, Toerge and Unsworth
NOES: None.
ABSENT: None.
ABSTAIN: None.

E. PUBLIC COMMENTS

Chair Unsworth opened the public comments period.

Chair Unsworth closed the public comments period.

F. REQUEST FOR CONTINUANCES – None.

G. CONSENT ITEMS

ITEM NO. 1 Minutes of June 23, 2011

Commissioner Hawkins proposed various changes to the minutes.

Motion made by Commissioner Hawkins and seconded by Commissioner Toerge, and carried (5 – 0) with 2 recusals (Kramer and Myers) to continue the minutes so that amendments can be made as stated.

AYES: Ameri, Hawkins, Hillgren, Toerge and Unsworth
NOES: None.
ABSENT: None.
ABSTAIN: None.

H. PUBLIC HEARING ITEMS**ITEM NO. 2** Pemstein Residence Minor Use Permit and Variance (PA2010-173)
2430 Holiday Road

The applicant is seeking a minor use permit to allow for the retention of an as-built second dwelling unit to be converted to a senior accessory dwelling (granny) unit and a related variance to allow for the construction of a garage addition to encroach 2 feet into the required 10-foot easterly side setback. The application also includes a request for variance approval to retain ten (10) as-built over-height structures located within required setbacks including: four (4) arbors, four (4) walls, a free-standing fireplace and a storage building.

Planning Technician Erin M. Steffen provided a staff report and utilized a PowerPoint presentation.

Planning Technician Steffen noted that staff's recommendation is to adopt the Resolution approving Minor Use Permit No. UP2010-040 for the granny unit and approving Variance No. VA2011-005 only for the construction of the garage addition to encroach two (2) feet into the required 10-foot easterly side setback, while denying the encroachment request of the arbors, walls, fireplace, and storage building. She stated that if the Planning Commission decides to recommend approval for the arbors, walls, fireplace, and storage building, which staff is recommending denial, the Commission must identify facts to support the required findings.

In response to questions from the Commission, Planning Technician Steffen clarified that the property owner has been notified that there is a 5-foot Southern California Edison (SCE) utility easement in the rear yard, if Commission were to recommend approval staff of the storage building which encroaches into the utility easement a condition of approval would be added that required the applicant to receive approval from SCE for the encroachment, the easement runs on the 5-foot line, the code states that the maximum height of fences, hedges, and walls shall be limited to 42 inches in the front setback and 6 feet in the side and rear setbacks, the applicant would either have to remove or redesign these structures to comply with the code, all requests are a result of a code enforcement violation, there are no letters of opposition regarding the project, the issue concerning the fireplace is its height because the applicant built it at 8 feet 3 inches but in order for the fireplace to be in compliance with the code it is limited to 6 feet in height and if the chimney is lowered then the fireplace would be in compliance, the issue with the storage building is similar: the applicant built it above 11 feet when it is limited to 6 feet in height, the storage building would need to be removed, lowered in height to 6 feet, or relocated within the buildable lot outside the setback to comply to the code

Discussion ensued between Planning Technician Steffen, the Commission and staff regarding traffic safety and visibility issues regarding the driveway, sight-distance requirements for driveways, line-of-sight, letters of support from adjacent neighbors, the close proximity of the applicant's yard to Tustin Avenue and the enjoyment of privacy as a possible finding to justify the continued existence of the walls and bringing the encroachments into compliance.

Chair Unsworth called for Ex Parte Communication reports from the Commission.

Commissioner Toerge reported that he visited the site and talked to the applicant.

Commissioner Hawkins reported that he visited the site, spoke to the applicant and forwarded emails to the applicant in connection with the change in Planning Commission personnel.

Commissioner Ameri reported that he visited the site and spoke to the applicant regarding the various improvements and the variances request.

Chair Unsworth reported that he visited the site and spent time with the applicant looking over the items.

Chair Unsworth opened the public hearing.

Harold Pemstein, the applicant, stated that he submitted a color packet of photographs displaying the 55 inch wall, clarified the shrubs have been on the site for many years and are not intended to be a hedge, noted that he contacted SCE, that SCE visited the site and stated that they (SCE) will grant the applicant's requested easement for the storage building for a \$500 fee and stated that he submitted a rebuttal to staff's argument regarding the other 10 items.

Deborah Lucas, the co-applicant applicant, referenced a letter that she and the applicant submitted, stated that all of the items are property enhancements noting that none of them harm the neighbors visually or safety-wise, requested to work with the City and not destroy any of the beautiful improvements made over the last 22 years and noted that she did not keep records of verbal approvals from the City to make changes to the property.

In response to questions from the Commission, Planning Technician clarified that the following items all require permits: fences over 6 feet in height; storage units over 120 square feet or if less than that but have some kind of electrical or plumbing inside, stated that there are original permits for the 6 foot walls located in the rear as well as on the two (2) sides of the property.

Assistant City Attorney Mulvihill responded to a question from the Commission that a waiver or estoppels would not apply because the improvements in question did indeed, at the time of construction, require permits.

Chair Unsworth opened the public hearing period.

Steven Cameron, resident, stated that aesthetically the property is gorgeous based on the improvements they have made, asked the Commission to approve the application, stated that he is fully in support of their application and commented regarding the original constructions of adjacent homes.

James Stevenson, resident, commented on the 2-foot wall addition stating that he does not advocate a "free-for-all" with regard to the code but in this case he supports the variance, mentioned that he loves the fence and would like the fence to stay because it adds a degree of protection for privacy from noise, he has no objection to the storage building as long as the fence is there.

Chair Unsworth closed the public hearing period.

Commissioner Toerge thanked staff, stated that he is inclined given the circumstances of the application to seek a compromise from the code and the practicality of what is there, spoke regarding the arbor in the front-yard setback, stated that he believes there are compelling reasons and findings to justify approval of the arbors, walls, fireplace, and storage building, asked staff to help in crafting the findings to justify approval or continue it in order to identify the proper findings that can be generated, stated that he is not inclined to require the removal of the arbors, walls, fireplace, and storage building but stated that they should be brought into compliance if public safety issues arise, stated that he is troubled by the arbor in the front-yard setback and that his inclination is to require that the arbor in the front-yard setback be removed because it impacts others and adjacent property owners.

Commissioner Hawkins mentioned that the property owner across the street who is most affected by the variance request for the arbor in the front yard is in full support of the application and verified with staff that the applicant could leave the structure in place if he “cuts it up” meaning the applicant would be in compliance with two or three adjacent arbors as long as each one constitutes no more than 16 square feet as the code does not limit the number of these structures in the required yards.

Commissioner Hawkins also stated that he believes the Commission can make findings with respect to: all of the rear-yard improvements due to the circumstances of the property and the utility easement; side-yard height issues for the fences on both sides because they are necessary for privacy issues and especially the easterly part of the property especially if the Commission is going to approve the granny unit thus enhancing the livability of the structure; the chimney on the fireplace because the chimney is necessary for the safety of the fireplace; and stated that it is only the front-yard arbor that is an issue but if the applicant “cuts-it-up” then it will be in substantial compliance with the code.

Motion made by Commissioner Hawkins and seconded by Vice Chair Toerge, and carried (7 – 0) to approve the minor use permit and all the variances with respect to the findings previously stated regarding the arbors, walls, fireplace, and storage building.

AYES:	Ameri, Hawkins, Hillgren, Kramer, Myers, Toerge and Unsworth
NOES:	None.
ABSENT:	None.
ABSTAIN:	None.

ITEM NO. 3 Whitacre Residence Appeal - (PA2010-105)
101 15th Street

The applicant requests a use permit for an addition of up to 75 percent of the existing gross floor area and alterations of up to 75 percent of the existing structural elements of a nonconforming structure. The applicant also requests a modification permit to allow the proposed addition to encroach five (5) feet into the required 5-foot side setback on the northerly side of the property in order for the proposed residential unit on the second floor to line up with the wall of the commercial structure on the first floor. The modification permit request is also to allow an 8-foot encroachment into the required 10-foot rear setback for the carports with a deck above. The site is developed with two (2) commercial structures adjacent to 15th Street and a residential structure to the rear. The applicant proposes an addition to the existing residence and the addition of a new dwelling unit above the commercial structures. Four-car parking is proposed to satisfy the residential parking requirements.

Assistant Planner Fern Nueno provided a staff report and utilized a PowerPoint presentation.

Community Development Director Kim Brandt noted that this is a De Novo hearing and that all the evidence can be considered.

In response to a question from Commission Hawkins, Assistant City Attorney Mulvihill clarified that Commissioner Hawkins is “free to sit in” and vote on this item even though he submitted an appeal letter and requested review of the application, noting that the code allows for the Planning Commission to call items up for review with no requirement of recusals.

Chair Unsworth spoke regarding the previous Zoning Code and parking issues relative to the commercial site and the totality of the project.

In response to Chair Unsworth's comments, Ms. Nueno referenced the "Nonresidential Parking" section in the code and clarified that parking for the residential addition is being provided (four car parking with two per unit) and that the Code does not require that the commercial parking be provided because there is no enlargement or intensification of the commercial use proposed because the applicant is only expanding the existing residential and proposing a new unit.

Commissioner Hawkins referenced Point No. 6 under Appeal Letter on page seven (7) of the staff report, mentioned that "demolitions" are not a defined term in the code however "alterations" and "structural alterations" are defined terms in the code, stated that his concern is regarding the demolition of majority of the commercial and then reconstruction of that noting that under the code's language it can be regarded as an alteration and mentioned that he feels the project is at 75 percent alteration, spoke regarding the findings in the resolution in comparison to the finding of the Zoning Administrator resolution, referenced handwritten page 16 New Finding: E which states that the cost of correcting the nonconforming condition would exceed the cost of the proposed project, New Information E3 that the Zoning Administrator did not have noting that the Zoning Administrator did not base his determination on the new information, stated that the new findings put a dollar number to the costs, mentioned that there was a missing part in connection with the Zoning Administrator's determination based on the new information and spoke regarding whether the Zoning Administrator made the appropriate findings in connection with the nonconformity of the use.

Assistant Planner Nueno clarified that historically the City has not considered demolishing entire walls and then rebuilding them as just a structural alteration, noted that demolishing three (3) out of four (4) walls would not be considered a structural alteration from the City's point of view, stated that the 75 percent rule allows for alterations to structural elements, that typically the City has done surface area calculations including roofs, foundations, and exterior walls and not necessarily each structural member within the wall, noted that the plans provided in the packet are essentially the same plans from the Zoning Administrator with the addition of the structural calculations since the appeal, noted that Fact in Support of Finding E3 was not included in the Action Letter findings, that the facts stated in the Action Letter were the basis for the approval and noted that there are just a few changes to the resolution based on the new information.

Community Development Director Brandt clarified for the record that there is new information in the Planning Commission Resolution that is different from the Zoning Administrator's Action Letter and asked Assistant Planner Nueno to point out what additional and supporting findings have been included in the Planning Commission Resolution.

Chair Unsworth stated that he is concerned about putting a brand new structure on top of a commercial building and potentially exceeding the 75 percent rule and inquired as to how Staff determined that \$550,000 (the estimated cost of the proposed project) is minor in comparison to the value of the nonconforming parking and setbacks.

Ms. Nueno noted the cost of the proposed project is compared to value of the nonconformity, not the cost of the nonconformity. Ms. Nueno further stated that the value of the nonconformity is not necessarily a monetary value, but rather the value of the existing, nonconforming condition. A development comparable to what is existing would not be able to be constructed under the current code, so the value of the existing nonconformity is value of having a mixed-use development on site compared with the cost of the proposed construction.

Commissioner Hawkins stated that one of the grounds for appeal was that the approval is inconsistent with use permits in the area and inquired as to whether it is an appropriate grounds for an appeal.

Assistant Planner Nueno clarified that D1 and E3 were the only changes to the findings from the Action Letter to the Planning Commission Resolution.

Chair Unsworth called for Ex Parte Communication reports from the Commission.

Commissioner Hawkins reported that he spoke with Mr. Todd Schooler, an agent of one of the adjacent property owners who appeared at the hearing, noted that Mr. Schooler did not participate in the drafting of the appeal or call for review, and mentioned that he visited the site.

Commissioner Toerge reported that he visited the site.

Commissioner Myers reported that he visited the site.

Chair Unsworth opened the public hearing period.

Joe Angelo, applicant, stated that he believes the structures were built around 1945, that he does not intend to invade the majority of the commercial structure, commented regarding his neighbor's mixed-use property and stated that he read and is in agreement with all of the conditions.

William Azzalino, architect for the Whitacre Residence, spoke about the structure on the property, stated that the intention is to leave the existing walls complete, that the only new addition to the existing buildings would be the addition of two (2) new columns on either side for support, mentioned the carports, parking for the commercial, 75 percent rule, stucco upgrades, residential redevelopment and stated that he does not think there would be any problem with a condition that distributes the 75 percent alteration to the entirety of the structures but suggested that the condition state that there will be no more than 75 percent alteration to the commercial structures at all.

Chair Unsworth invited comments from the public.

Todd Schooler, architect representing Morrie Nero, asked why a use permit is required if the applicant only intends to demolish or alter 8-25 percent, suggested that the applicant be required to submit a demo plan, expressed his concerns regarding the cost of the proposed project, spoke regarding trash storage and suggested that the revised conditions of approval regarding the trash storage state that any trash enclosures belonging to the commercial site be located on their property.

Morrie Nero, property owner adjacent to the applicant, expressed his concerns regarding the parking requirements for the applicants' commercial establishment, the cost of the proposed project, requested removal of the trash storage from off the street, mentioned a potential handicapped parking space once the trash storage is removed, spoke regarding trenching along the Surf Shop property, stated that the Surf Shop wall is not adequate enough to support a second story and mentioned potential earthquake damage.

Maret Kunze, tenant of the adjacent property, expressed her concerns regarding high-density parking and requested that the construction be completed in a timely manner so it does not interrupt her business.

In response to comments and concerns, Mr. Angelo spoke regarding the trash storage, noted that he ordered a smaller trash storage and plans to move it from its current location, estimated that the commercial space will be down for approximately 30 days and stated that his goal is to rapidly complete the exterior and complete the project as fast as he can.

Chair Unsworth closed the public hearing.

Chair Unsworth re-opened the public comment period to allow the architect to elaborate on construction time.

Mr. Azzalino stated that a demolition plan has already been provided to the City and stated that an estimate of 12 months is a reasonable time frame for the anticipated completion of the project.

Chair Unsworth closed the public hearing.

Commissioner Ameri spoke regarding the integrity of the existing structure, public safety issues, a thorough review of the Traffic Engineer's report and stated that he is uncomfortable approving the project without a thorough review of the structural plans.

In response to questions from the Commission, Community Development Director Brandt clarified that Building and Planning will work together during the plan check review process to ensure that if the Planning Commission decides to approve this project, the proposed improvements will comply with all the applicable building codes and Zoning Code approval and noted that the approved permit for any demolition, structural alterations and new construction will comply with any zoning entitlement obtained for the project. She stated that if during construction, the structure is altered in a manner that is not consistent with the approval or require modifications to the permit, the City will issue a Stop Work Order (Red Tag) until the issues can be resolved.

Commissioner Kramer made a motion to uphold the decision of the Zoning Administrator and adopt the resolution with the Use Permit and Modification Permit.

Commissioner Hawkins seconded this motion for the purposes of discussion and noted the following additional amendments: make an additional finding that the structure is a nonconforming structure and base those findings on the appropriate language; the resolution also affirm the appeal in that there are several issues including the new facts that have been added; add a condition that states that the 75 percent alteration cannot be located in the existing nonconforming structures and note that the applicant accepts this condition.

Commissioner Hillgren expressed his concern regarding Item No. 10 under the conditions of approval and recommended that it be moved or tied to Item No. 31. The maker and the second of the motion accepted this recommendation.

In response to a clarification request from Mr. Ramirez regarding the added condition for 75 percent structural alterations, Commissioner Hawkins requested that the public comment period be re-opened to allow the architect to restate his more restrictive condition.

Chair Unsworth re-opened the public comment period.

Mr. Azzalino suggested that the condition state that the majority of all commercial walls shall remain intact meaning at least 50 percent of every wall has to remain intact and noted that there will be more specifics and information in the plans that he will submit to the Building Division.

Chair Unsworth closed the public hearing.

Community Development Director Brandt spoke regarding the limitations of alterations, referenced handwritten page 20 of the staff report and suggested Condition No. 4 read that "the alterations to all commercial structures on the property shall not exceed more than 50 percent of any structural exterior wall or roof" noting that this condition is limited to the exterior as proposed.

Commissioner Hawkins recommended that the amendment to Condition No. 4 state that “the alterations to all commercial structures on the property shall not exceed more than 30 percent of any structural exterior wall or roof” instead of 50 percent as proposed by Community Development Director Brandt. He stated that if his recommendation of a 30 percent limit to the amended Condition No. 4 is not acceptable to the maker of the motion then he would not support the motion.

Commissioner Kramer stated that the amendment was acceptable.

Commissioner Toerge expressed his concerns regarding the effectiveness of the estimate on construction costs, asked how or if staff's recommendation would change if the construction costs were to double, how much support staff has done to confirm the estimated numbers, inquired as to how the construction costs were estimated without detail plans, structural plans and structural calculations, stated that the numbers do not make sense, that there is a lack of hard evidence and stated that he does not believe that the applicant can build with the numbers he has proposed.

Assistant Planner Nueno stated that if construction costs were to double the only finding it would change is Fact in Support of Finding E3 which states that “the cost of correcting the nonconforming condition would exceed the cost of the other alterations proposed”, mentioned that projected costs were provided by the applicant and reviewed by staff based on the valuation of projected which can be verified by the permit system and that the numbers are based on square footage and occupancy.

Motion made by Commissioner Kramer and seconded by Commissioner Hawkins, and failed (3 – 4) to uphold the decision of the Zoning Administrator and adopt the Resolution for Use Permit No. UP2010-021 and Modification Permit No. MD2010-027.

AYES:	Hawkins, Hillgren, and Kramer
NOES:	Ameri, Myers, Toerge and Unsworth
ABSENT:	None.
ABSTAIN:	None.

Chair Unsworth stated that appeal rights will terminate 14 days after today and that the decision will stand unless it is so appealed. Later in the meeting, at the conclusion of Item No. 4, there was a motion made by Commissioner Toerge and seconded by Commissioner Hawkins, and passed (5 – 2) to adopt the resolution for the findings of denial for Item No. 3, Whitacre Residence Appeal - (PA2010-105).

ITEM NO. 4 Nero Property Amendment, 15th Street (PA2011-061)
105 15th Street

The property owner is seeking to continue the existing non-conforming commercial uses of the subject property by requesting the following amendments: 1) General Plan Land Use designation from Two-Unit Residential (RT) to Mixed-Use Horizontal 4 (MU-H4), 2) Coastal Land Use Plan designation from Two-Unit Residential (RT-D) to Mixed-Use Horizontal (MU-H), and 3) Zoning designation from Two-Unit Residential (R-2) to the Mixed-Use Cannery Village and 15th Street (MU-CV/15th ST). No new land use or development is proposed at this time.

Senior Planner Javier S. Garcia provided a staff report and utilized a PowerPoint presentation.

Chair Unsworth called for Ex Parte Communication reports from the Commission.

Commissioner Toerge reported that he visited the site.

Commissioner Hawkins reported that he visited the site.

Chair Unsworth reported that he visited the site.

Commissioner Myers reported that he visited the site.

Chair Unsworth opened the public hearing.

Todd Schooler, architect, representing the applicant, submitted documents with pictures and maps to the Commission and stated that he read the staff report and agrees with its conditions.

George Schroeder, resident, stated that he supports the applicants' request.

Chair Unsworth closed the public hearing.

Motion made by Commissioner Toerge and seconded by Commissioner Hawkins, and carried (7– 0) to amend General Plan Land Use designation from Two-Unit Residential (RT) to Mixed-Use Horizontal 4 (MU-H4), amend Coastal Land Use Plan designation from Two-Unit Residential (RT-D) to Mixed-Use Horizontal (MU-H), and amend Zoning designation from Two-Unit Residential (R-2) to the Mixed-Use Cannery Village and 15th Street (MU-CV/15th ST).

AYES:	Ameri, Hawkins, Hillgren, Kramer, Myers, Toerge and Unsworth
NOES:	None.
ABSENT:	None.
ABSTAIN:	None.

Chair Unsworth stated that the decision will be final unless appealed within 14 days from today.

ITEM NO. 5 Restaurant Conditional Use Permit (PA2011-062)
111 Palm Street

The applicant is seeking a conditional use permit to allow an eating and drinking establishment with late hours, an outdoor dining patio, a second floor office area, and a Type 47 (On-Sale General) alcoholic beverage license. Conditional use permit approval is also necessary to reduce the required parking spaces through the approval of a parking management program because the subject property does not provide on-site parking.

Assistant Planner Makana Nova presented a staff report and utilized a PowerPoint presentation.

In response to questions from the Commission, Assistant Planner Nova clarified that the written comments received from the public were in opposition but the members of the public that she spoke to were in support of the project, there is no tenant for the current application noting that the property owner would like to reestablish the entitlement for the property in order to lease the property out to a potential restaurant, the conditions in the proposed resolution would apply to any new tenant going into the business however it is subject to an operator's license which can contain additional conditions set by the Police Department, the operator's license is granted by the Police Department not the Planning Commission, mentioned that the Planning Commission can deny the application without prejudice and that the conditions for the operator's license would not be placed until a new tenant submits plans for the property.

In response to questions from the Commission, Senior Planner Ramirez clarified that the land-use right has to be exercised within 24 months unless there is an extension requested but in this case it is truly a land-use issue, stated that the conditions can be modified if the Commission has concerns, an operator who does not want to stay open passed 11:00 p.m. would not need an operator's license

or require any further public hearing and would be able to operate based on the proposed conditions of approval.

Commissioner Hawkins stated that he has concerns about not having an operator already identified.

Chair Unsworth called for Ex Parte Communication reports from the Commission.

Commissioner Hawkins reported that he drove by the site.

Commissioner Toerge reported that he visited the site.

Chair Unsworth reported that he drove by the site.

Commissioner Myers reported that he visited the site.

Chair Unsworth opened the public hearing.

Nathan Ung, representing the applicant, stated that the property owner would like to reestablish the entitlement for the property in order to lease the property out to a potential restaurant, desires to be flexible enough in the hours of operations for potential tenants and stated that the applicant is agreeable to the hours of 6:00 a.m. to 12:00 midnight daily and 6:00 a.m. to 10:00 p.m. for the outdoor dining patio daily.

In response to questions from Commissioner Hilgren regarding the background, history, and operation portfolio of Lone Oak Newport, Mr. Ung clarified that Lone Oak Newport is the property owner, one of the principals at Lone Oak Newport used to operate restaurants and understands the dynamics involved in running restaurants, the property in question is the only property owned by Lone Oak Newport in Newport Beach and that they own other commercial properties in Orange County including office buildings in Tustin and a vacant parcel that they own in San Clemente. Mr. Ung stated that he would research and get back to the Commission regarding whether or not Lone Oak Newport owns any operating commercial properties like the one in question in California or if there are any existing operating restaurants that they are landlords for.

Commissioner Hawkins expressed his concerns regarding granting a parking waiver which requires that several of the findings be based on the fact that the operation is of a certain character and the Commission has no ability to determine what the character is without an operator.

Discussion ensued between the Commission and the applicant regarding the conditions of approval, ability to rotate the parking, peak parking demand, beach parking and hours of operation.

Chair Unsworth suggested restricting the hours of operation from 4:00 p.m. to midnight eliminating the daytime hours.

Mr. Ung stated that he is opposed to restricting the hours of operation because it doesn't make sense economically for a viable operation.

Mike Lawrence, broker for the property, requested that the hours of operation be limited to either day or evening so that when the open operator comes in they will have to apply to the Planning Commission if they want to extend the hours giving the Planning Commission the protection, leverage and control to limit or add conditions at that time rather than denying the application, approximated that it would take a few months to find a potential tenant, stated that the expired CUP has made the property virtually unmarketable, that having a permanent CUP would make a material difference in marketing the property and that a reduction in tables would be damaging.

In response to questions from Commissioner Hillgren regarding the parking waiver, Assistant Planner Nova stated that the reduction in the required offsite parking would be 32 spaces noting that the credit they receive is for 22 spaces, that 22 spaces equates to 880 square feet of net public area (total net public area parked) not including the outdoor dining patio and that they are allowed a 220 square foot outdoor dining patio however the existing patio is currently 606 square feet.

Commissioner Hillgren stated that his concern is that the Planning Commission could deny the application or approve the application with such limited and restricted conditions that potential operators would still not be interested in the property requiring them to come back to the Planning Commission, that the problem is the parking waiver because it is based upon the operating characteristics and suggested continuing the item for 15 or 30 days to allow the applicant more time to figure things out.

Mr. Lawrence agreed to come back in 30 days, asked if there was any viability of getting the parking waiver and asked for any feedback or guidance from the Commission.

Commissioner Ameri stated that it is very difficult to get a permit with conditions on hours of operation and a reduction of the requirements for parking which are very specific without an operator, suggested showing the potential operators the set of conditions noting that potential operators may want to alter the conditions to their likings so that when the applicant returns to the Planning Commission he will have something that is a little more suitable to the operator, suggested that the applicant come back to the Commission once he has an operator even if it takes 90 days, stated that the proposed conditions are not approved conditions yet and stated that it would be not appropriate to approve the application without an operator because the Commission has no idea what the impact will be on parking or the hours of operation.

Commissioner Hawkins stated that it is a natural restaurant site, that he is not generally supportive of parking waivers but stated that he would be in support of the parking waiver if there was an in lieu parking fee and suggested that the applicant talk with his client and develop restrictive enough conditions so that he would have to come back to the Planning Commission in 30 days.

Commissioner Hilgren stated that a restaurant is an appropriate use for the property, that having a specific operator is critical in order to hold that operator up to the template of the conditions being considered, stated that he finds it hard to support Commissioner Hawkins suggestion that the applicant market the restricted conditions to potential operators and then come back to the Commission in 30 days, although noting that it would be very difficult. He also stated he will support keeping the application open as long as possible so that the applicants' process is quick in coming back to the Commission so it can be applied to the operator very rapidly.

Community Development Director Brandt stated that there are state law requirements in terms of processing discretionary applications and that if there is a continuance request the applicant would have to agree to it, the Commission does have the ability, with the applicants' concurrence, to continue to a date to see if the applicant can secure a potential user for the property, recommended that the Commission take an action on the application if the Commission and the applicant cannot come to a concurrence on a continuance timeframe, because the application has been deemed complete since June and there are time frames that need to be complied with and referred to the Permit Streamlining Act.

Assistant City Attorney Mulvihill noted that the time frame is 180 days from June which is when the application was deemed complete and stated that the applicant should request the continuance.

Chair Unsworth stated that to the extent that a motion is made for a continuance, it would probably only receive a positive vote if the applicant waived its rights under the Permit Streamlining Act or any other ordinance, codes, statues that would require the City to act on a permit application within a specified time.

Mr. Lawrence agreed with Chair Unsworth's statements.

Chair Unsworth opened the public hearing to the general public.

George Schroeder, resident, gave encouragement to the property owner, spoke regarding revitalizing Downtown Balboa and parking issues, mentioned that there is ample parking about 75 percent of the time, stated that he supports a restaurant use on the property but is typically against liquor licenses, expressed his concerns regarding hard liquor licenses and late hours of operation and stated that he does not support giving an operator's license without an operator identified.

Justine Hurry, property owner, expressed her concerns regarding public drunkardness, excessive traffic, noise, the negative impact it might have on renting her property, requested that the Commission deny the application, stated that she never received any notice and mentioned that she has made several offers to buy the building.

Jim Stratton, spoke regarding the Neighborhood Revitalization Committee, stated that he supports the proposed use but is concerned about the parking provisions, suggested that in lieu parking be considered and that it would be better addressed at the upcoming Balboa Neighborhood Revitalization Committee noting that long-range planning for parking is critical in the revitalization of Balboa Village.

Dan Purcell, resident, expressed his concerns regarding hard liquor licenses and stated that it creates a lot of long term problems in the area.

Mr. Lawrence stated that the applicant is open to a continuance and is agreeable to the time waiver as it relates to the Permit Streamlining Act.

Commissioner Hawkins clarified that the applicant is supposed to make the request for a continuance with a knowing waiver of all time limitations put upon the City.

Mr. Lawrence requested for a continuance and a time waiver and stated that he would submit a formal request in writing for the record.

City Attorney Mulvihill clarified that the continuance would be for an additional 90 days.

Mr. Lawrence agreed and requested for a continuance for an additional 90 days.

Chair Unsworth closed the public hearing.

Commissioner Toerge stated that he is very compelled by the applicant's presentation and testimony and that he understands the difficulty and costs, stated that there are restrictions on the conditions, noted that it is a restaurant not a bar, cocktail lounge or night club, referenced the parking waiver and stated that it is inconceivable to him that the 20 or 30 parking spaces could not be found knowing that there are 612 parking spaces near the property and 68 parking spaces across the street, stated that he feels that the applicant is being forced into another delay tactic that he is trying to avoid and stated that with the indulgence of the Commission should the motion fail hopefully somebody on the prevailing side would reconsider the motion and repropose the continuance.

Motion made by Commissioner Toerge and seconded by Commissioner Kramer to approve Use Permit No. UP2011-012 with a closing hour of 12:00 midnight for the interior of the establishment and 10:00 p.m. for the outdoor dining patio, subject to the findings and conditions of approval in the draft resolution.

Commissioner Kramer stated that it is very important to at least be sensitive to the condition of the property because it has been vacant, that the area needs to be revitalized, staff has done a good job at crafting something that works, that there could easily be a parking waiver considering the municipal parking lot which is in close proximity and stated that they should be in favor of the application for those reasons.

Commissioner Ameri mentioned the fact that it is silly to approve a project without an operator and to give parking waivers for a use that could be a small sandwich shop that is open two (2) hours a day or a bar with established operation hours and expressed his concern regarding waiving parking requirements without knowing who is going to park there.

A substitute motion made by Commissioner Ameri and seconded by Commissioner Hawkins to deny the application without prejudice.

Commissioner Toerge stated that he will not support the substitute motion, that he respects the statements made by Commissioner Ameri but in this instance it does not make any sense, stated that the property needs a parking waiver because it has no parking and has never had parking, that the issue is to either give the property a parking waiver or tear the building down and stated that recommending, pursuing and approving the project is consistent with the goals of the City to revitalize the area.

Chair Unsworth agreed with Commissioner Toerge, stated that they have to rely on their abilities to condition the project and that whoever comes in will operate according to those conditions.

Commissioner Hawkins requested that staff address some of the public comments that were made regarding public nuisances such as noise and drunkenness and discuss how the operator's permit will address those concerns.

Assistant Planner Nova clarified that the operator's permit has the ability to limit the hours of operation and require a security plan for the business and noted that the Police Department has the ability to further limit its use, stated that because the existing use is currently considered retail and it is non-conforming the applicant gets a credit of 22 parking spaces based on the retail parking rate for that use, and stated that the City does not currently have an in lieu parking mechanism for the district or City.

The substitute motion made by Commissioner Ameri and seconded by Commissioner Hawkins failed (2-5) to deny the application without prejudice.

AYES:	Ameri and Hawkins
NOES:	Hillgren, Kramer, Myers, Toerge and Unsworth
ABSENT:	None.
ABSTAIN:	None.

Chair Unsworth stated that a two-thirds majority vote is needed to call for the question.

Assistant City Attorney Mulvihill clarified that the vote must pass by a two-thirds majority to immediately call for the question and stop any discussion on the motion on the floor.

The two-thirds majority vote for no discussion carried (6-1).

AYES: Hawkins, Hillgren, Kramer, Myers, Toerge and Unsworth
NOES: Ameri.
ABSENT: None.
ABSTAIN: None.

Chair Unsworth requested that the Commission vote on the pending motion.

Motion made by Commissioner Toerge and seconded by Commissioner Kramer and carried (4-3) to approve Use Permit No. UP2011-012 with a closing hour of 12:00 midnight for the interior of the establishment and 10:00 p.m. for the outdoor dining patio, subject to the findings and conditions of approval in the draft resolution.

AYES: Kramer, Myers, Toerge and Unsworth
NOES: Ameri, Hawkins, Hillgren,
ABSENT: None.
ABSTAIN: None.

Chair Unsworth stated that the decision will be final unless appealed within 14 days from today.

Assistant City Attorney Mulvihill requested to be heard before moving on to New Business.

Assistant City Attorney Mulvihill clarified that Item No. 3 was a motion to uphold the decision of the Zoning Administrator which failed, pointed out the resolution identifying findings for denial of the Zoning Administrators' decision on handwritten page 25 of the staff report and respectfully requested that one of the members of the prevailing vote on the denial (Ameri, Myers, Toerge and Unsworth), under the rules of procedure, consider reconsidering Item No. 3 simply for the purposes of adopting the resolution for denial and noted for the record that the Zoning Administrators' decision was reversed.

Motion made by Commissioner Toerge and seconded by Commissioner Myers, and passed (6 – 1) to reconsider Item No. 3 simply for the purposes of adopting the resolution for denial.

AYES: Ameri, Hawkins, Hillgren, Myers, Toerge and Unsworth
NOES: Kramer.
ABSENT: None.
ABSTAIN: None.

Assistant City Attorney Mulvihill requested that the Commission vote to adopt the resolution for the findings of denial.

Motion made by Commissioner Toerge and seconded by Commissioner Hawkins, and passed (5 – 2) to adopt the resolution for the findings of denial.

Assistant City Attorney Mulvihill clarified that a “no” vote means upholding the decision of the Zoning Administrator.

Discussion ensued between the Commission regarding what the “yes” and “no” vote entails.

AYES: Ameri, Hillgren, Myers, Toerge and Unsworth
NOES: Hawkins and Kramer.
ABSENT: None.
ABSTAIN: None.

I. NEW BUSINESS – None.

J. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 Community Development Director's report.

None.

ITEM NO. 7 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

None.

ITEM NO. 8 Request for excused absences.

Commissioner Toerge requested an excused absence on July 21, 2011.

Commissioner Myers requested an excused absence on July 21, 2011.

Commissioner Hillgren requested an excused absence on July 21, 2011.

Commissioner Hawkins requested a tentative excused absence on July 21, 2011.

Commissioner Hawkins mentioned the possibility of the Planning Commission not having a quorum on July 21, 2011.

Community Development Director Brandt stated that the meeting on August 4, 2011 at 4:00 p.m. has a lengthy agenda and stated that if the Commission anticipates that they are not going to have a quorum on July 21, 2011, staff will just reorder the projects in terms of getting them to the Commission and make sure that the agendas are appropriately balanced.

Discussion ensued regarding public notices that may have potentially been sent for the meeting on July 21, 2011.

ADJOURNMENT - The Planning Commission adjourned at 10:07 p.m. to 4:00 p.m. on July 21, 2011.

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

July 21, 2011 Meeting

Agenda Item 3

SUBJECT: Bowman Variance - (PA2011-099)
403 Jasmine Avenue
▪ Variance No. VA2011-008

APPLICANT: Brandon Architecture

PLANNER: Jaime Murillo,
Associate Planner
(949) 644-3209, jmurillo@newportbeachca.gov

PROJECT SUMMARY

Request for approval of a variance to allow the construction of a 6-foot-high deck and 42-inch-high guardrail (9-foot-6-inch total height) that would encroach 5 feet into the required 5-foot rear alley setback. The alley is unimproved and is not utilized for vehicular access.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt draft resolution approving Variance No. VA2011-008, subject to findings and conditions (Attachment No. PC 1).

VICINITY MAP



GENERAL PLAN



ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Two-Unit Residential (RT)	Two-Unit Residential (R-2)	Two-unit residential dwellings
NORTH	RT	R-2	Two-unit residential dwellings
SOUTH	RT	R-2	Single-unit residential dwelling
EAST	RT	R-2	Two-unit residential dwellings
WEST	RT	R-2	Two-unit residential dwellings

INTRODUCTION

Project Setting

The subject property is located northwesterly of the intersection of Jasmine Avenue and Bayside Drive in Corona del Mar. The lot is rectangular in shape and 3,450 square feet in area. The lot slopes down in grade approximately 16 feet from the street elevation to the alley in the rear. Surrounding properties consist of single-unit and two-unit residential dwellings.

The alley located at the rear of the subject property measures 14 feet in width and is currently unimproved (Attachment No. PC3 - Alley Photographs). The length of the alley from First Avenue to its terminus at the City park is approximately 215 feet and slopes down in grade approximately 16 feet. Though an alley dedication exists to the rear of the property, the dedication exists on paper only. The Public Works Department has no plans to improve the alley for vehicular access given its topography and the possibility of adversely affecting the City park in the Bayside Drive right-of-way. Improving the alley for vehicular access would involve modifying or relocating the playground area within the City park to allow the alley access to Bayside Drive. The residential properties abutting the alley take vehicular access from Iris Avenue and Jasmine Avenue.

The City has no plans of vacating the alley because of the utilities that currently exist within the alley. A 6-inch-wide water line is located below grade and a 12-inch-wide wastewater (sewer) line is located above grade along the entire length of the alley to the limits of the City park, at which point both lines are located below grade. The City may also explore relocating a storm drain through alley in the future.

Adjacent Encroachments

The two, two-unit condominium buildings located across the alley at 400 and 402 Iris Avenue were granted a variance (VA 1160) in 1989 allowing the structures to exceed the height limit due to the topography of the lots. The VA 1160 also allowed the construction of 3-foot-high retaining walls and 6-foot-high fences (9-foot-high total height) that encroach 5 feet into the rear 5-foot alley setback. The two-unit condominium building located to the north of the subject property at 405 Jasmine Avenue has been constructed with an approximately 4-foot-high retaining wall and 42-inch-high guardrail that encroaches 5 feet into the 5-foot rear alley setback. A balcony on the second level also encroaches five feet into the setback. Staff has been unable to locate any associated permits, plans, or discretionary approvals for this encroachment and is currently investigating the construction (Attachment No. PC4 - Adjacent Encroachments Photograph).

Project Description

The applicant is currently constructing a four-level, two-unit residential condominium building on the subject site. The new condominium building will measure approximately 3,515 square feet in gross floor area. Since the alley is unimproved, vehicular access will be taken from Jasmine Avenue. The structure steps down in height with the natural topography of the site towards the alley (Attachment No. PC5 –Project Plans). As discussed in detail in the Zone Code Analysis section of this report, the project would conform to all the required zoning regulations of the R-2 Zoning District, with the exception of the requested encroachment.

The applicant is proposing to encroach 5 feet into the 5-foot rear alley setback with a 6-foot-high deck and 42-inch-high guardrail. The total combined height of the deck and guardrail would be 9 feet 6 inches (El. 103') as measured from the worst case natural grade (El. 93.5'). The deck has been designed to cantilever from the foundation of the residential structure and is supported by two posts. The design of the deck allows it to be easily removed in the future should the City decide to ever improve the alley, without affecting the foundation of the residential structure.

DISCUSSION

Analysis

General Plan

The Land Use Element of the General Plan designates the property for Two-Family Residential (RT) uses. This designation applies to a range of two-family residential dwelling units such as duplexes and townhomes. The subject two-unit residential condominium building is consistent within this designation.

Local Coastal Plan

The subject property has a Coastal Land Use Plan designation of Two-Unit Residential (RT-D). The subject two-unit residential condominium building is consistent within this designation.

Zoning Code Analysis

The subject property is located within the Two-Unit Residential (R-2) Zoning District. The subject two-unit residential condominium building is a permitted use within the R-2 Zoning District. With the exception of the requested setback encroachment, all development regulations of the R-2 Zoning District would be met, including main building setbacks and structure height limitations. A building permit has been issued for the construction of the subject two-unit condominium building, with the exception of the requested encroachment. The following breakdown summarizes compliance with the required development standards:

Development Standards	Required	Proposed Project
Setbacks		
Front	15'	15'
Side	3'	3'
Rear (alley)	5'	5' to main structure 0' to deck (requires variance)
Maximum Height	24' Flat Roof/Deck Rails	24' Flat Roofs/Deck Rails
	29' Sloped Roof	29' Sloped Roofs
Maximum Floor Area Limit	3,528 sq. ft. (Buildable Area x 1.5 ; 2,352 sf x 1.5)	3,515 sq. ft.
Parking	2 spaces per unit	2 spaces per unit

Variance -Rear Setback Encroachment

Pursuant to Section 20.30.110.D.1.c of the Zoning Code, no encroachments at the ground level are allowed within the required rear setback area of a lot abutting an alley. All alley setback areas shall be clear of obstructions. Therefore, the requested five-foot encroachment into the five-foot rear alley setback requires the approval of a variance. Pursuant to Section 20.52.090 of the Zoning Code, the Planning Commission must make the following findings in order to approve a variance:

1. *There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification;*
2. *Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification;*
3. *Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;*
4. *Granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district;*
5. *Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public*

convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and

6. *Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.*

Staff believes sufficient facts exist to support the required findings and have included such facts in the attached draft resolution. The subject property, and other adjacent properties located along this unimproved alley, is unique in that the topography of the lot slopes down towards the unimproved alley. Typically, residential properties adjacent to 14-foot-wide alleys are required to maintain 5-foot rear setbacks that are clear of any structures or obstructions in order to improve vehicular maneuverability through the alleys; however, in this case, the alley is unimproved and a clear 5-foot setback is not necessary for this purpose. Given that this alley is not improved, and will likely never be improved for vehicular access, the property owner is deprived of the privilege of using the rear setback area as outdoor living space similar to other residential properties that do not abut an alley. Properties zoned R-1 and R-2 that are not located adjacent to an alley are typically required to maintain 10-foot rear setbacks, but are permitted to construct fences, walls, and other accessory structures up to a height of 6 feet within this setback to provide a private and protected outdoor living area.

The topography of the lot also limits the usability of rear of the lot for outdoor living space. Due to the topography of the lot, the height of the deck and guardrail is required to maintain the same elevation as the lowest level of the house and to create a usable outdoor living area that nearby properties on flat lots are able to enjoy.

The encroachment into the rear alley setback will not be detrimental or constitute a hazard to persons residing in the neighborhood because the deck has been designed so it can be removed with minimal alteration to the residential structure should the City ever decide to improve the alley. The deck is cantilevered with only two posts supporting the deck, minimizing the massing of the encroachment as viewed by the neighboring residences. The guardrails are the minimum height necessary for safety and are designed to be of open construction, and will not obstruct light and air to adjoining properties, nor adversely impact views from adjacent residential properties.

Therefore, staff recommends that the Planning Commission approve Variance No. VA2011-008 based on the discussion and facts above and the recommended conditions of approval that have been incorporated into the attached Draft Resolution for Approval (Attachment No. PC1).

Alternatives

Should the Planning Commission find the facts do not support the findings required to grant approval of the Variance, the Planning Commission should adopt the draft resolution, included as Attachment No. PC 2, denying Variance No. VA2011-008.

Environmental Review

If the project is approved, the project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction). This exemption allows for the construction of apartments, duplexes, and similar structures designed for no more than six dwelling units. The subject deck is accessory to the two-unit residential condominium structure currently under construction.

If denied, projects which a public agency rejects or disapproves are not subject to the California Environmental Quality Act ("CEQA") review, pursuant to Section 15270 of the CEQA Guidelines.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:

Submitted by:



Jaime Murillo,
Associate Planner



Gregg Ramirez, Senior Planner

ATTACHMENTS

- PC 1 Draft Resolution for Approval with Findings and Conditions
- PC 2 Draft Resolution for Denial
- PC 3 Alley Photographs
- PC 4 Adjacent Encroachments Photograph
- PC 5 Project Plans

Attachment No. PC 1

Draft Resolution for Approval with
Findings and Conditions

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING VARIANCE NO. VA2011-008 TO ALLOW THE CONSTRUCTION OF A 6-FOOT-HIGH DECK AND 42-INCH-HIGH GUARDRAIL THAT WOULD ENCROACH 5 FEET INTO THE REQUIRED 5-FOOT REAR ALLEY SETBACK AT 403 JASMINE AVENUE (PA2011-099)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Christopher Brandon, AIA, with respect to the property located at 403 Jasmine Avenue, and legally described as Lot 3, Block 336, of Corona del Mar Tract, requesting approval of a variance.
2. The applicant proposes a variance to allow the construction of a 6-foot-high deck and 42-inch-high guardrail (9-foot-6-inch total height) that would encroach 5 feet into the required 5-foot rear alley setback. The alley is unimproved and is not utilized for vehicular access.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone and is designated Two-Unit Residential (RT-D) by the Coastal Land Use Plan.
5. A public hearing was held on July 21, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction). This exemption allows for the construction of apartments, duplexes, and similar structures designed for no more than six dwelling units. The subject deck is accessory to the two-unit residential condominium structure currently under construction.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.090.F of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. That there are special or unique circumstances or conditions applicable to the subject property (e.g. location, shape, size, surrounding, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.*

Facts in Support of Finding:

- A-1. The subject property, as well as the other adjacent properties located along this unimproved alley, slopes down towards the unimproved alley.
- A-2. Residential properties adjacent to 14-foot-wide alleys are required to maintain 5-foot rear setbacks that are clear of any structures or obstructions in order to improve the maneuverability through the alleys; however, in this case, the alley is unimproved and a clear 5-foot setback is not necessary for this purpose.
- A-3. The topography of the lot limits the usability of rear of the lot for outdoor living space.

Finding:

- B. That strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.*

Facts in Support of Finding:

- B-1. Properties zoned R-1 and R-2 that are located adjacent to 14-foot-wide alleys are required to provide 5-foot setbacks, which must be clear of any obstructions, including fences and decks, to allow for increased vehicular maneuverability through the alleys.
- B-2. Given that this alley is not improved, and will not likely be improved, the property is deprived of the privilege of using the setback area as outdoor living space.

Finding:

- C. That the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.*

Facts in Support of Finding:

- C-1. Since the alley is unimproved and there is no need to maintain a clear 5-foot setback to the alley for vehicular maneuverability, the granting of the variance will allow the applicant the ability to utilize the area within the setback for outdoor living space.

- C-2. Due to the topography of the lot, the height of the deck and guardrail is required to maintain the same elevation as the lowest level of the house and to create a usable outdoor living area that nearby properties on flat lots are able to enjoy.

Finding:

- D. That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.*

Facts in Support of Finding:

- D-1. The granting of the Variance allows the property owner to maintain parity with the usable outdoor space enjoyed by residential properties not regulated by a rear alley setback limitations or topography.
- D-2. Properties zoned R-1 and R-2 that are not located adjacent to an alley are typically required to maintain 10-foot rear setbacks, but are permitted to construct fences, walls, and other accessory structures up to a height of 6 feet within this setback to provide a private and protected outdoor living area.
- D-3. In this case, the property abuts an unimproved alley that does not warrant the requirement that the setback be clear of any encroachments or obstructions.
- E. That the granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.*

Facts in Support of Finding:

- E-1. The deck has been designed to facilitate removal in the future should the City ever decide to improve the alley.
- E-2. The deck is cantilevered with only two posts supporting the deck, minimizing the massing of the encroachment as viewed by the neighboring residences.
- E-2. The guardrails are the minimum necessary height for safety and are designed to be of open construction, and will not obstruct light and air to adjoining properties, nor adversely impact views from adjacent residential properties.
- F. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.*

Facts in Support of Finding:

- F-1. The Land Use Element of the General Plan designates the subject property Two-Unit Residential (RT). The RT land use designation is intended to provide for a range of two-family residential dwelling units such as duplexes and townhomes. The subject two-unit residential condominium building is consistent within this designation.
- F-2. The subject property is located within the Two-Unit Residential (R-2) Zoning District. The subject two-unit residential condominium building is a permitted use within the R-2 Zoning District.
- F-3. The subject property is not located within a specific plan area.
- F-4. The granting of the Variance would allow the construction of an accessory structure to a two-unit residential condominium building that is consistent with the RT land use designation and R-2 Zoning District.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Variance No. VA2011-008, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 21st DAY OF JULY, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Charles Unsworth, Chairman

BY: _____
Bradley Hillgren, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

PLANNING

1. *The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)*
2. *Variance No. VA2011-008 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
3. *The maximum height of the deck shall not exceed 6 feet in height and the guardrail shall not exceed 42 inches in height. The guardrail shall be constructed of open grillwork, wrought iron, latticework, Plexiglass, or similar materials.*
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
6. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
7. This Variance may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
8. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly

or indirectly) to City's approval of the Bowman Residence including, but not limited to, the Variance No. VA2011-008. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building

10. The applicant is required to obtain all applicable permits from the Building Division of the Community Development Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code.

Public Works

11. *In the event that the alley is improved in the future, the property owner may be required, at their own expense, to remove the deck and guardrail encroachment within the rear 5-foot alley setback to accommodate the improvement.*

Attachment No. PC 2

Draft Resolution for Denial

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING VARIANCE NO. VA2011-008 TO ALLOW THE CONSTRUCTION OF A 6-FOOT-HIGH DECK AND 42-INCH-HIGH GUARDRAIL THAT WOULD ENCROACH 5 FEET INTO THE REQUIRED 5-FOOT REAR ALLEY SETBACK AT 403 JASMINE AVENUE (PA2011-099)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Christopher Brandon, AIA, with respect to the property located at 403 Jasmine Avenue, and legally described as Lot 3, Block 336, of Corona del Mar Tract, requesting approval of a variance.
2. The applicant proposes a variance to allow the construction of a 6-foot-high deck and 42-inch-high guardrail (9-foot-6-inch total height) that would encroach 5 feet into the required 5-foot rear alley setback. The alley is unimproved and is not utilized for vehicular access.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone and is designated Two-Unit Residential (RT-D) by the Coastal Land Use Plan.
5. A public hearing was held on July 21, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

Pursuant to Section 20.30.110.D.1.c of the Zoning Code, no encroachments at the ground level are allowed within the required rear setback area of a lot abutting an alley. All alley setback areas shall be clear of obstructions. Therefore, the requested 5-foot encroachment into the 5-foot rear alley setback requires the approval of a variance. The Planning Commission may approve a variance only after making each of the six required findings set

forth in Section 20.52.090.F. In this case, the Planning Commission was unable to make the required findings based upon the following:

1. There are no special or unique circumstances or conditions applicable to the subject property that generally does not apply to other properties zoned R-1 and R-2 in the vicinity. Several other properties are located along the unimproved alley and are subject to the same encroachment restrictions within the rear alley setback and subject to topographical constraints.
2. The strict compliance with Zoning Code requirements would not deprive the subject property of privileges enjoyed by other properties in the vicinity and is not necessary for the preservation and enjoyment of substantial property rights because the design of the two-unit residential condominium could be altered to include a Code-compliant lower level patio.
3. The granting of the Variance would constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity because it would allow the subject property the ability to expand their usable outdoor living space into the rear setback area where other properties located along alleys are required to maintain the 5-foot setback.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies Variance No. VA2011-008.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 21st DAY OF JULY, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Charles Unsworth, Chairman

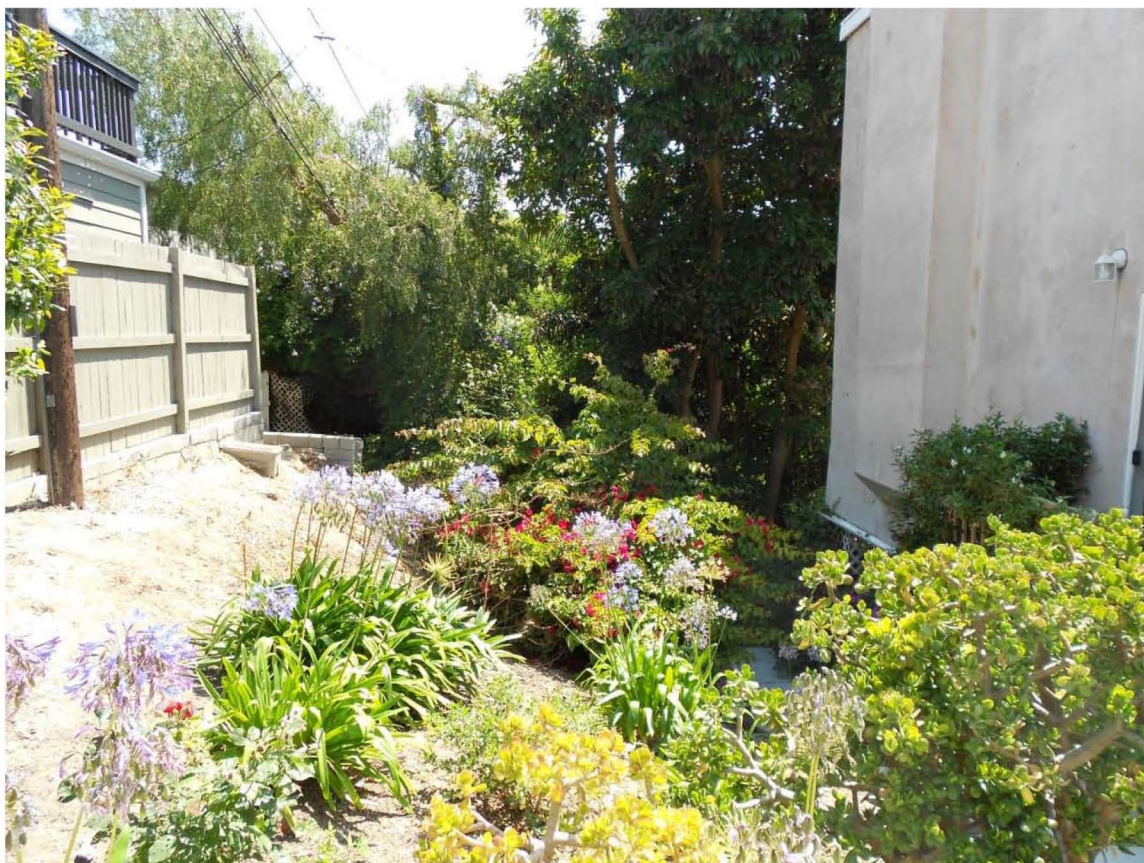
BY: _____
Bradley Hillgren, Secretary

Attachment No. PC 3

Alley Photographs



View of alley from First Avenue



View of alley First Avenue (close-up)



View of alley from City park

Attachment No. PC 4

Adjacent Encroachments Photograph



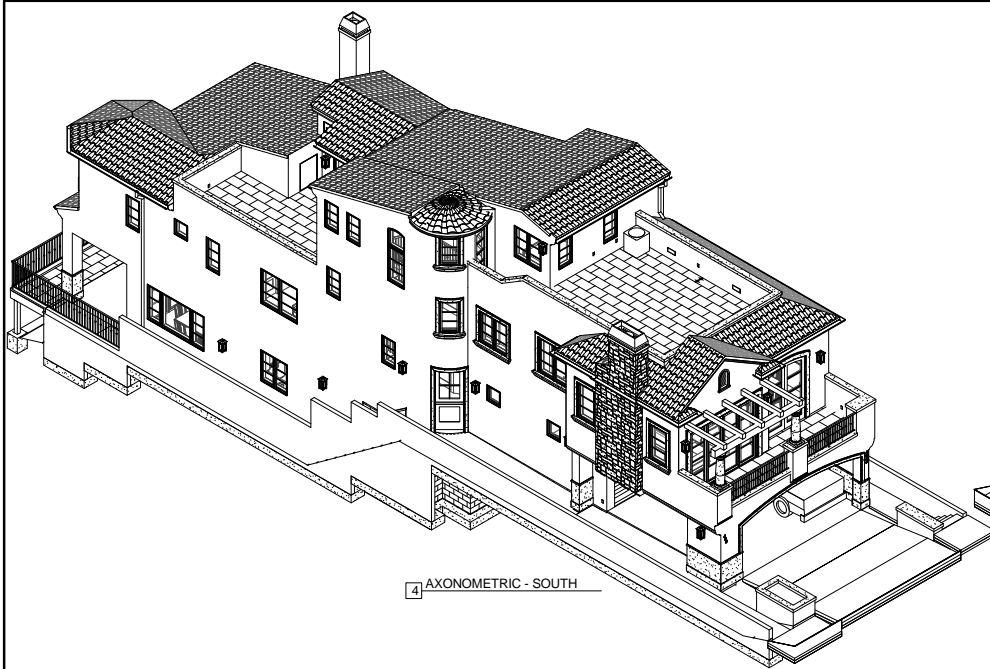
Left- Retaining Wall Encroachments (400 and 402 Iris Avenue)



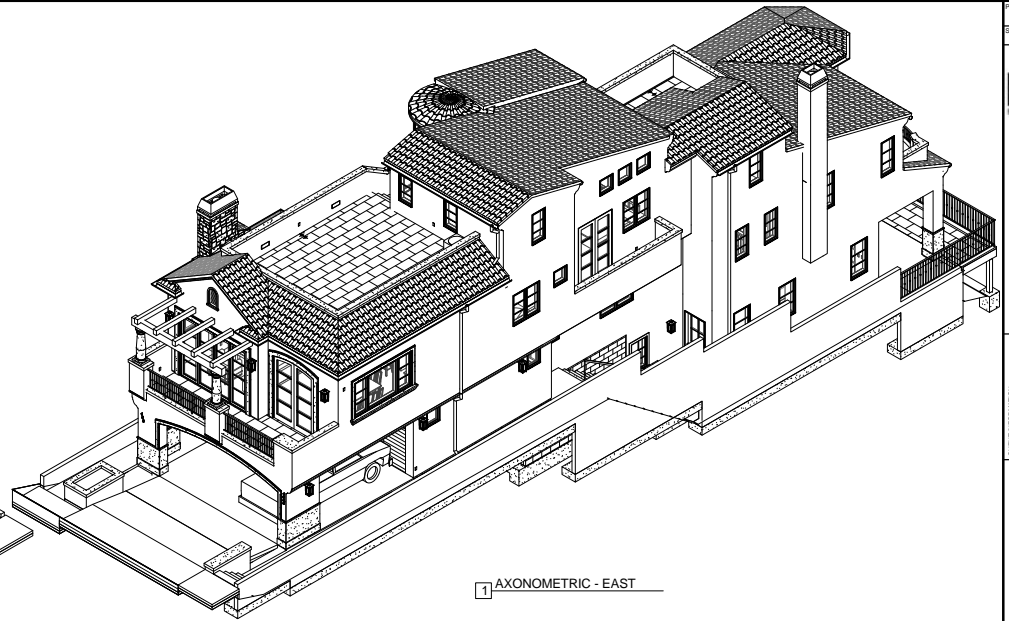
Patio and Balcony Encroachments (405 Dahlia Avenue)

Attachment No. PC 5

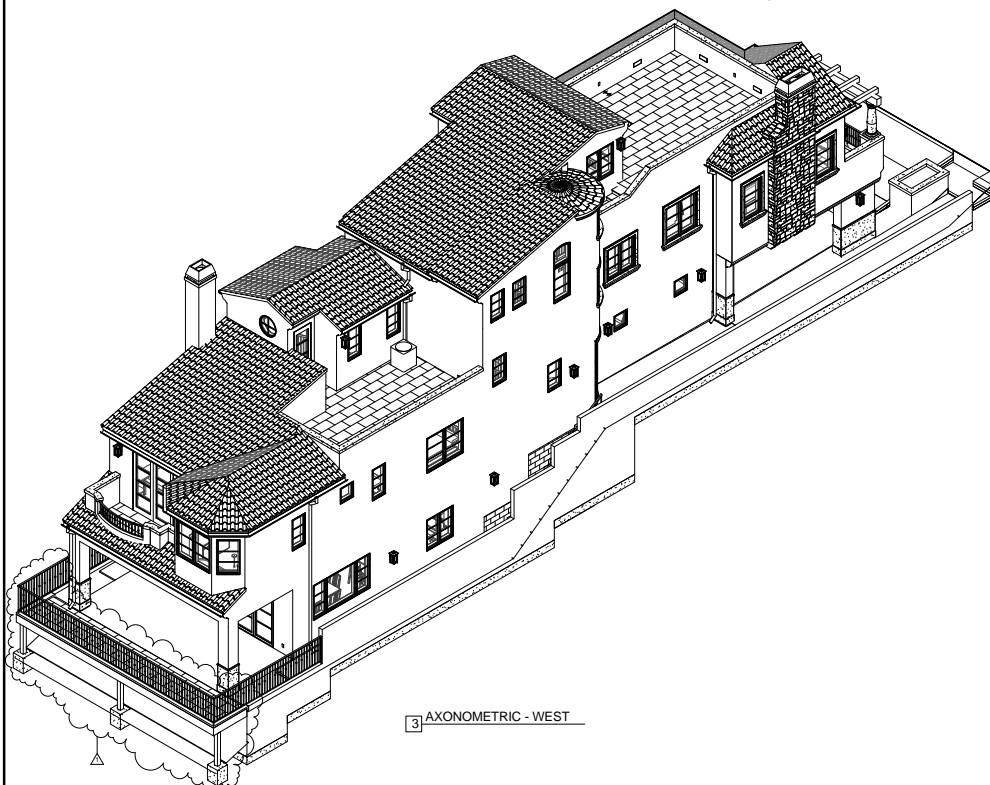
Project Plans



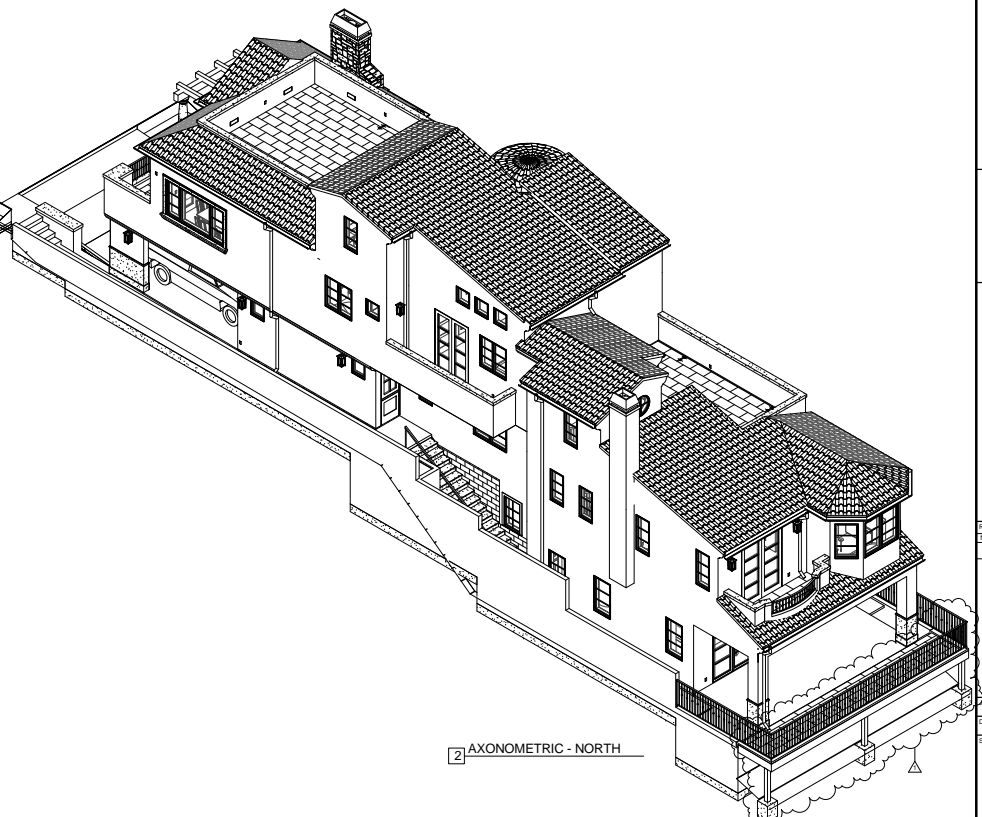
4 AXONOMETRIC - SOUTH



1 AXONOMETRIC - EAST

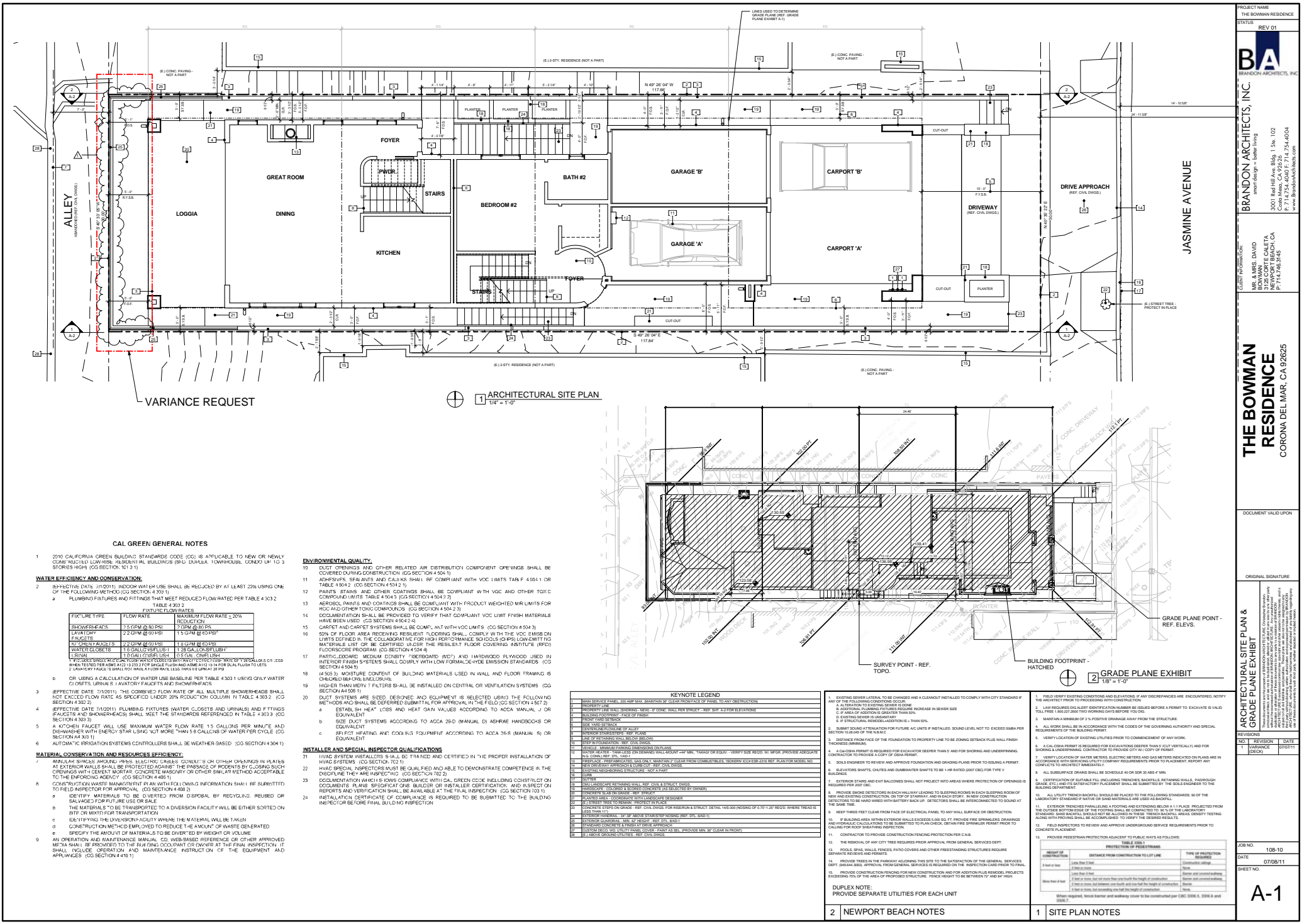


3 AXONOMETRIC - WEST



2 AXONOMETRIC - NORTH

PROJECT NAME THE BOWMAN RESIDENCE	
STATUS REV 01	
 BRANDON ARCHITECTS, INC. 3001 Red Hill Ave. Bldg. 1, Ste. 102 Costa Mesa, CA 92626 P: 714.754.4604 F: 714.754.4034 WWW.BRANDONARCHITECTS.COM	
CLIENT INFORMATION MR. & MRS. DAVID BOWMAN 714.754.4604 3001 Red Hill Ave. Bldg. 1, Ste. 102 Costa Mesa, CA 92626 P: 714.754.4604 F: 714.754.4034 WWW.BRANDONARCHITECTS.COM	
THE BOWMAN RESIDENCE CORONA DEL MAR, CA 92625	
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NO. / REVISION 1 / 1	DATE 07/08/11
SHEET NO. A-0	DATE 07/08/11



PROJECT NAME
THE BOWMAN RESIDENCE

STATUS
REV 01

BA
BRANDON ARCHITECTS, INC.
BRANDON ARCHITECTS, INC.
3001 Red Hill Ave. Bldg. 1, Ste. 102
Corona, CA 92626
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COUNTY PROJECT NUMBER
MR. & MRS. DAVID
BOWMAN
1000 CALIF. ST.
NEWPORT BEACH, CA
P: 714.748.9145
WWW.BOWMANARCHITECTS.COM

**THE BOWMAN
RESIDENCE**
CORONA DEL MAR, CA 92625

DOCUMENT VALID UPON
INSPECTION

ORIGINAL SIGNATURE

DATE

NO. OF REVISIONS

DATE

1

VARIANCE

07/07/11

USION

ARCHITECTURAL SITE PLAN &
GRADE PLANE EXHIBIT

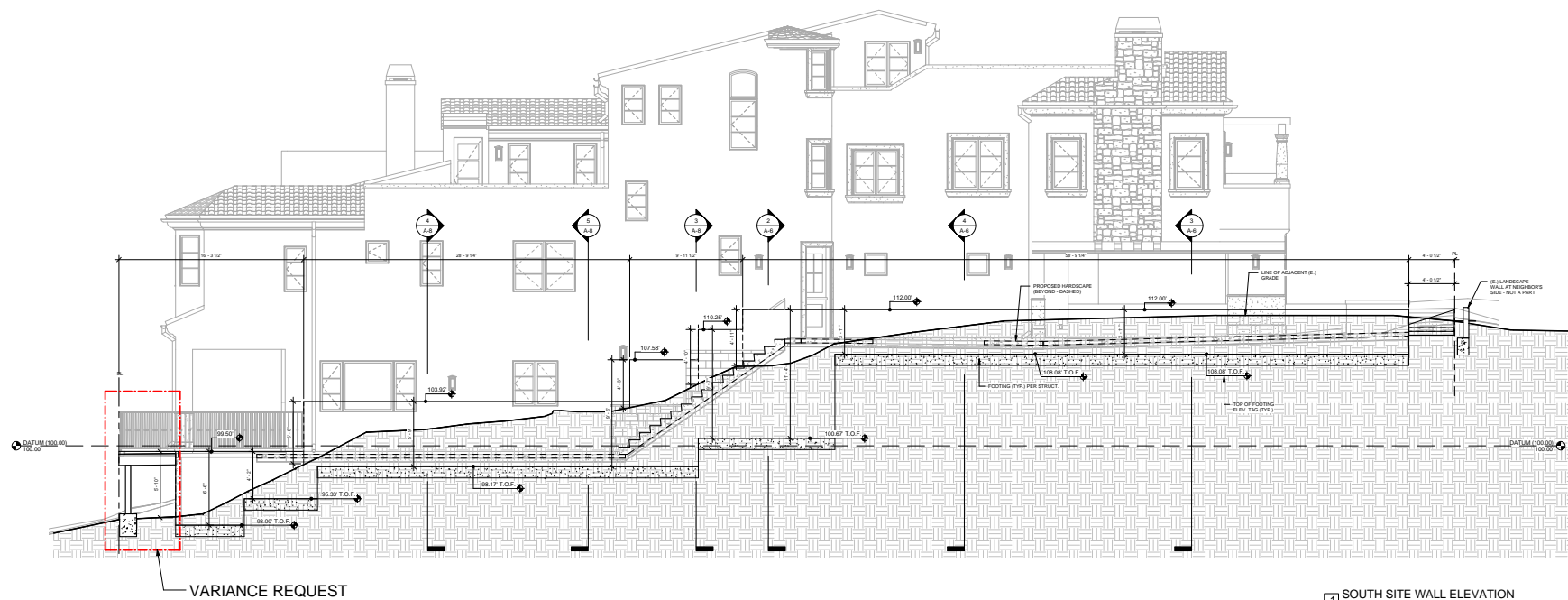
FOR THE BOWMAN RESIDENCE
1000 CALIF. ST., NEWPORT BEACH, CA 92626
MR. & MRS. DAVID BOWMAN
1000 CALIF. ST., NEWPORT BEACH, CA 92626
P: 714.748.9145
F: 714.748.9145
WWW.BOWMANARCHITECTS.COM

JOB NO.
108-10

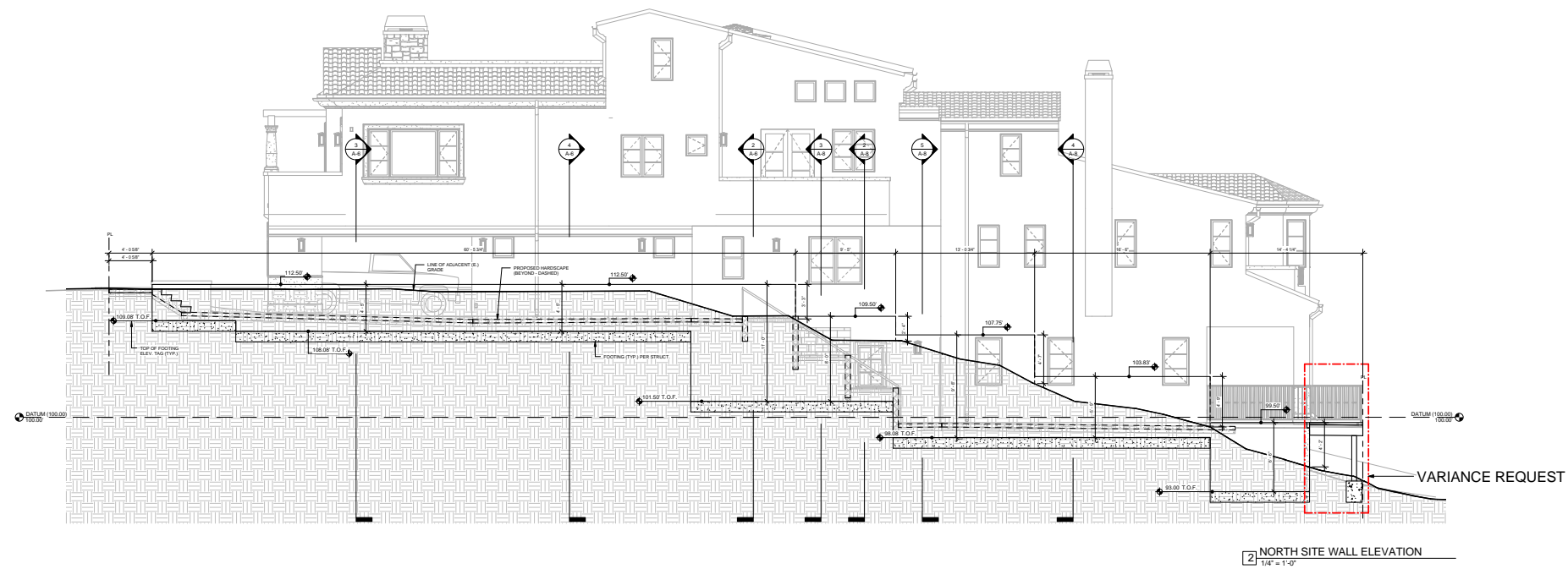
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07/08/11

SHEET NO.
1

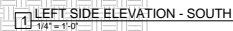
A-1



1 SOUTH SITE WALL ELEVATION
1/4" = 1'-0"



2 NORTH SITE WALL ELEVATION
1/4" = 1'-0"



WINDOWS & DOORS: AUTHORIZED DEALER PRODUCTS LISTED BELOW: SUPPLIER: ASSOCIATED BUILDING SUPPLY CONTACT: JOE YOUNMAN PHONE: 848-351-1119 EMAIL: JOE@YOUNMANBUILDING.COM WWW.ASSOCIATEDBUILDINGSUPPLY.COM	STATUS: REV D1
ALUMINUM CLAD WINDOWS & PATIO DOORS	BA
PRODUCT: CUSTOM COLLECTION 3204 LAMBERT BLVD. #70, BOX 1258 KILGORTH FALLS, OREGON 97131	BRANDON ARCHITECTS, INC.
PHONE: 503-536-3330 FAX: 503-536-3330 WWW.BRANDONARCH.COM	BRANDON ARCHITECTS, INC.
ALUMINUM WOOD LPF ALUMINUM DOORS	
PRODUCT: ALUMINUM WOOD LPF ALUMINUM DOORS SUPPLIER: JAVIS BUILDING WORLD, NORTHVILLE TOWNSHIP, MICHIGAN 48060	
PHONE: 248-488-3211 FAX: 248-488-3211 WWW.JAVISBUILDING.COM	
ALUMINUM WOOD LPF ALUMINUM DOORS	
PRODUCT: ALUMINUM WOOD LPF ALUMINUM DOORS SUPPLIER: JAVIS BUILDING WORLD, NORTHVILLE TOWNSHIP, MICHIGAN 48060	
PHONE: 248-488-3211 FAX: 248-488-3211 WWW.JAVISBUILDING.COM	
STUCCO VENEER	
MANUFACTURER: MONIERE STUCCO 10000 W. 10TH AVE. SUITE 100 DENVER, CO 80231 P: 773-445-1111	
COLOR: TBD ARCH TO APPROVE APPLICATION: STUCCO TROUBLESHOOT	
CODE: 901.5.5 THICK, 5/8 IN. 2 LAYERS GRADE 2 PAPER	
STONE VENEER	
SUPPLIER: STONE MOUNTAIN STONE & BOUNDER SUPPLY 780 N. TOWN CIRCLE VALLEY RD. SUITE 100 DENVER, CO 80231 P: 720-740-1028	
STONE TYPE: RED MOUNTAIN ARCH TO VERIFY COLOR: LIGHT GRAY W/ HINTS OF RED & MUSTY COLORS	
APPLICATION: RANDOM, MOUNTAIN FIELD LOGGE	
THICKNESS: 1-1.5" NOMINAL	
WEIGHT: TBD	
ROOFING:	
PRODUCT: 1/2" THICK 30 YEAR PLY	
MANUFACTURER: 10000 W. 10TH AVE. SUITE 100 DENVER, CO 80231 P: 773-445-1111	
COLORING: TBD ARCH TO APPROVE	
APPROVALS: CLASS A ASSEMBLY ICC ESR-1488	
WEIGHT: APPROX. 11 PSF.	
GUTTERS:	
SUPPLIER: TBD	
SHAPE: COVE OR HALF ROUND (VERIFY W/ ARCH)	
GARAGE DOORS:	
SUPPLIER: RANCH HOUSE DOORS WWW.RANCHHOUSEDOORS.COM	
STYLE: CRAFTSMAN & CARP. DOOR COLLECTIONS	
MATERIAL: CUSTOM BUILT, WOOD & GLASS	
PRE-CAST CONCRETE:	
SUPPLIER: C&C CONCRETE DESIGNS INC. 830 S. HIGHTSHORR RD. P: 800-635-8853	
COLOR: TBD ARCH TO APPROVE	
FINISH: TBD ARCH TO APPROVE	

CURRY INFORMATION:	BRANDON ARCHITECTS, INC.
MR. & MRS. DAVID BRYANMAN 10000 W. 10TH AVE. SUITE 100 DENVER, CO 80231 P: 771-146-3145	BRANDON ARCHITECTS, INC. 3001 Red Hill Ave. Bldg. 1 Ss. 102 Costa Mesa, CA 92626 P: 714.746.3145 www.Brandonarchitects.com

CURRY INFORMATION:	BRANDON ARCHITECTS, INC.
MR. & MRS. DAVID BRYANMAN 10000 W. 10TH AVE. SUITE 100 DENVER, CO 80231 P: 771-146-3145	BRANDON ARCHITECTS, INC. 3001 Red Hill Ave. Bldg. 1 Ss. 102 Costa Mesa, CA 92626 P: 714.746.3145 www.Brandonarchitects.com

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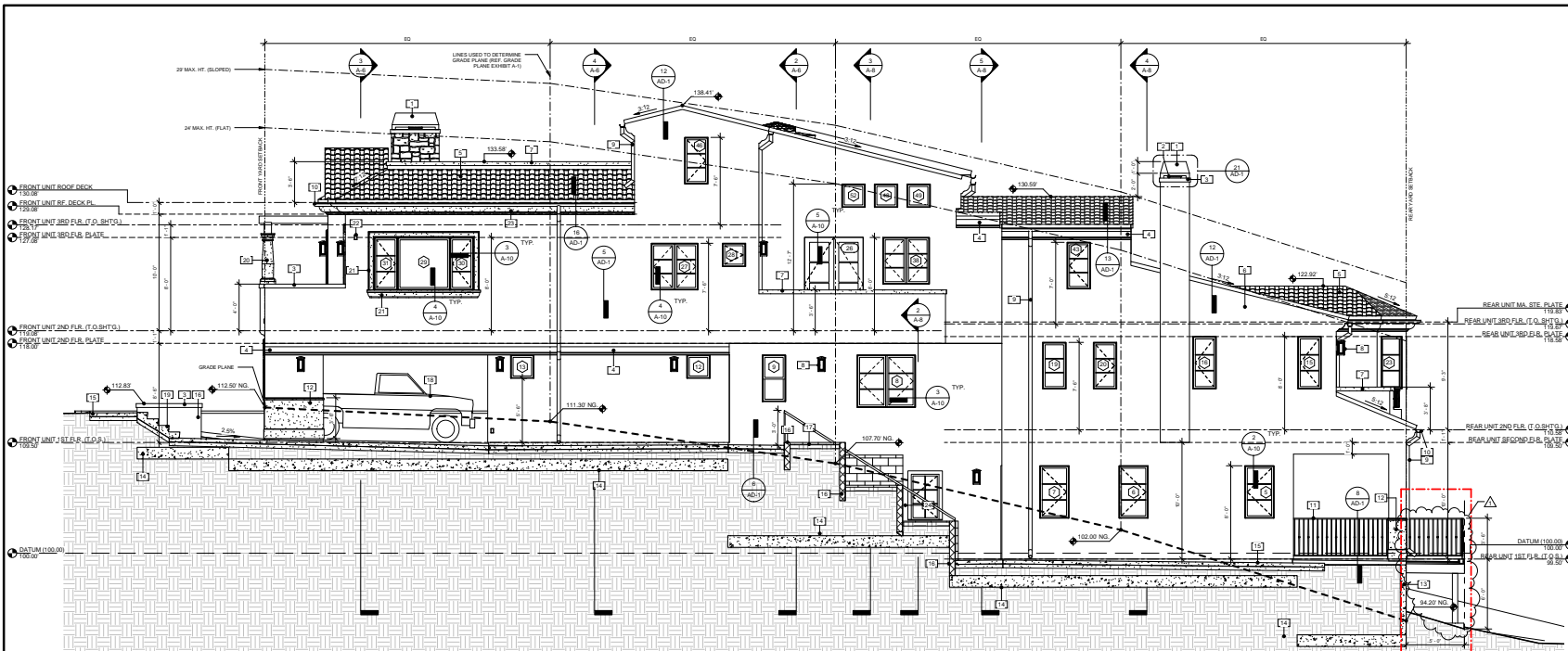
CURRY INFORMATION:	BRANDON ARCHITECTS, INC.
MR. & MRS. DAVID BRYANMAN 10000 W. 10TH AVE. SUITE 100 DENVER, CO 80231 P: 771-146-3145	BRANDON ARCHITECTS, INC. 3001 Red Hill Ave. Bldg. 1 Ss. 102 Costa Mesa, CA 92626 P: 714.746.3145 www.Brandonarchitects.com

**THE BOWMAN
RESIDENCE**
CORONA DEL MAR, CA 92625

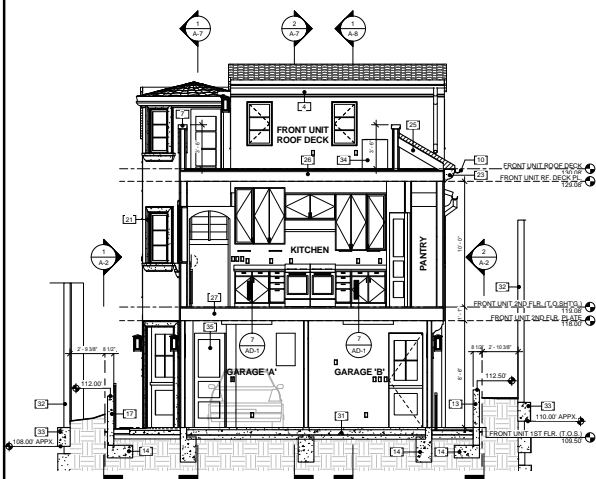
EXTERIOR ELEVATIONS

JOB NO.	108-10
DATE	07/08/11

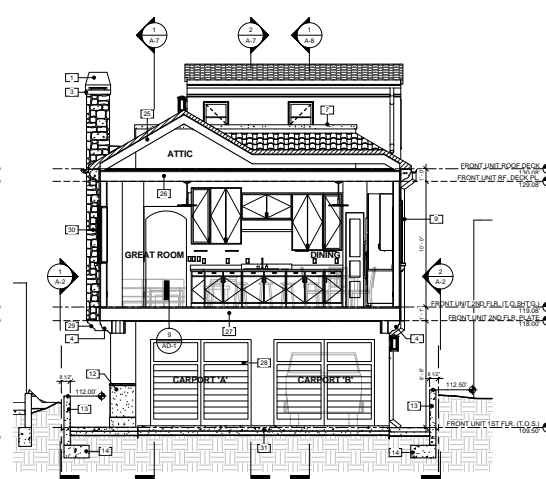
A-5



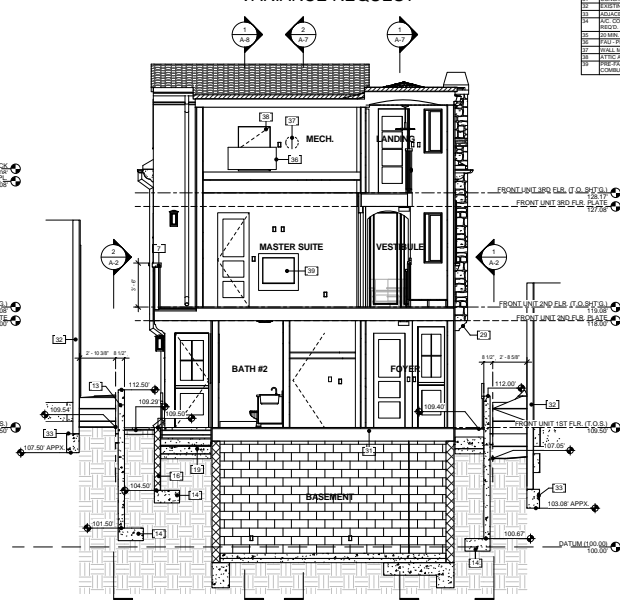
1 RIGHT SIDE ELEVATION - NORTH
1/4" = 1'-0"

[illegible]

4 TRANSVERSE SECTION
1/4" = 1'-0"

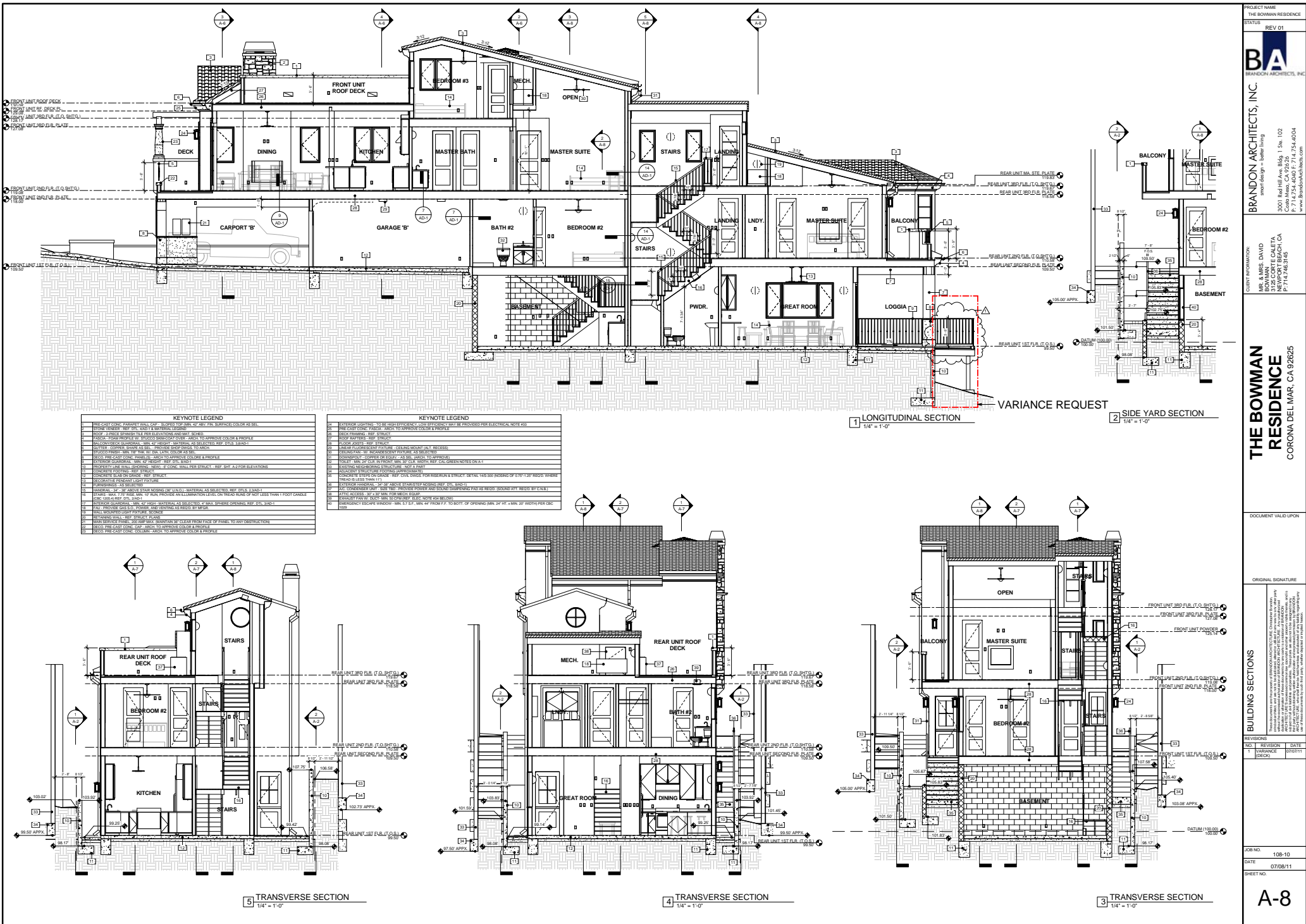


3 TRANSVERSE SECTION
1/4" = 1'-0"



2 TRANSVERSE SECTION
1/4" = 1'-0"

A-7



PROJECT NAME
THE BOWMAN RESIDENCE

STATUS
REV 01

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CLIENT INFORMATION
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BOWMAN
1500 E. CALETA
NEWPORT BEACH, CA
P: 714.746.9145

THE BOWMAN
RESIDENCE

CORONA DEL MAR, CA 92625

DOCUMENT VALID UPON

REVISIONS

NO.	REVISION	DATE
1	VARIANCE SECTION	07/08/11

ORIGINAL SIGNATURE

DATE

JOB NO.
108-10

DATE
07/08/11

SHEET NO.

A-8

Revised Condition

Item No. 3a

Bowman Variance

PA2011-099

Bowman Variance (PA2011-099)

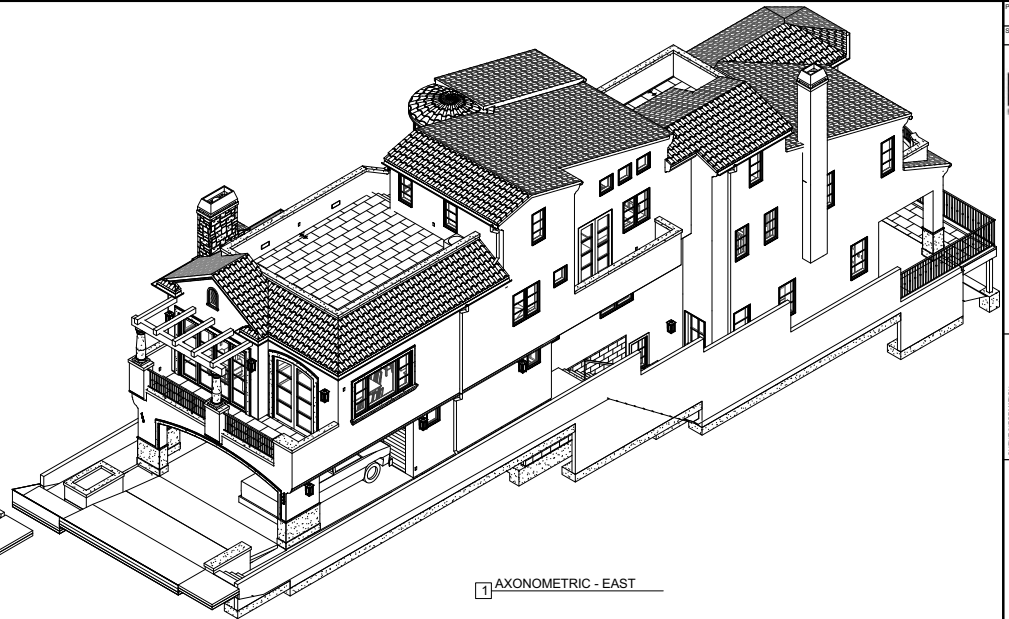
Item No. 3

Revise Condition No. 11

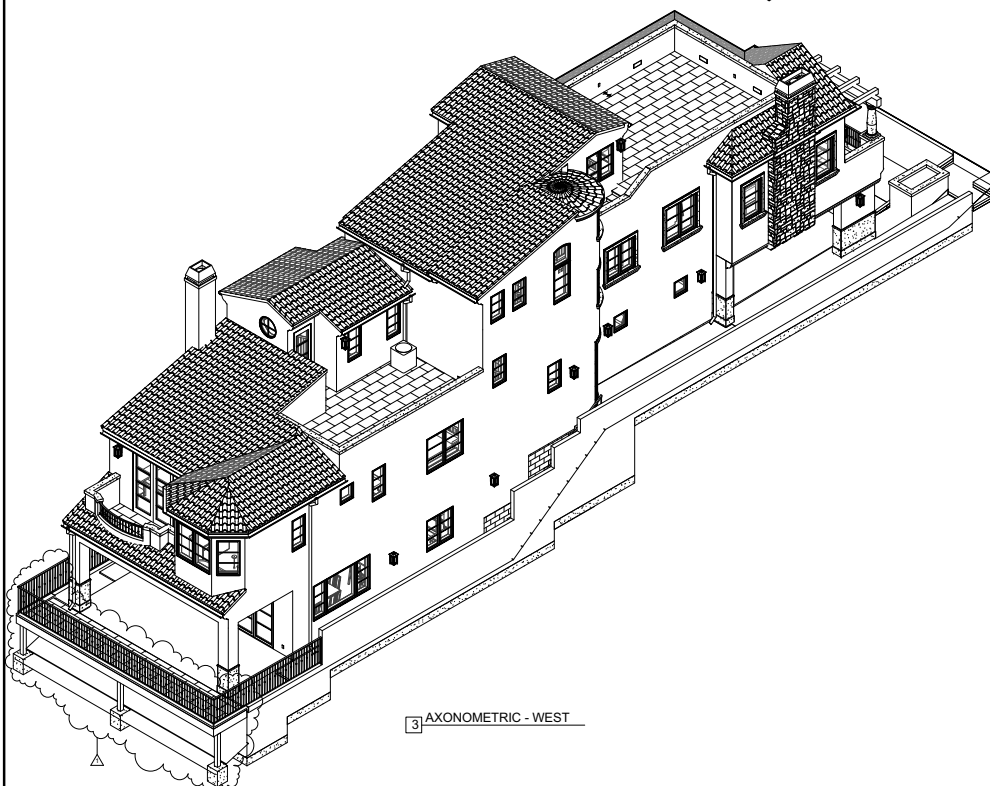
In the event the alley is improved in the future, or if the City decides to utilize the alley right-of-way for any reason for which the City in its sole and absolute discretion determines that the deck and guardrail should be removed, the property owner is required, at their own expense, to remove the deck and guardrail encroachment within the rear 5-foot alley setback. Should the property owner fail to remove the deck and guardrail encroachment in a timely manner, the City may remove the deck and guardrail encroachment and recover the costs of removal from the property owner. The property owner shall not be entitled to any compensation from the City for the removed deck and guardrail.



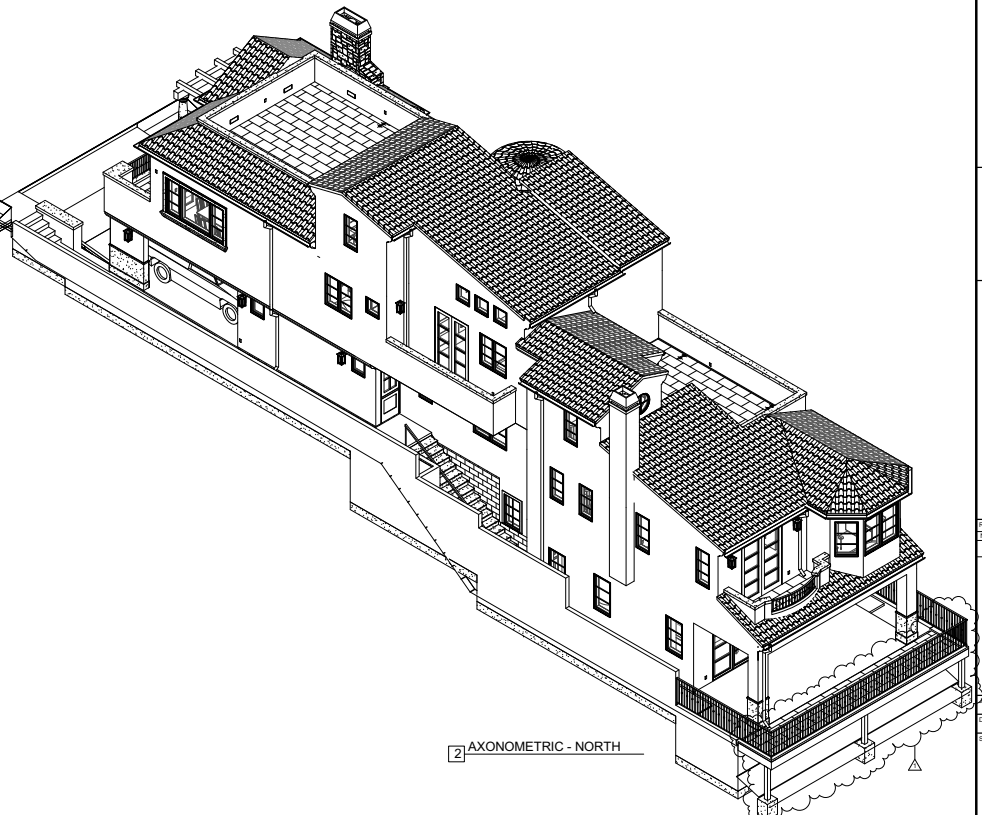
4 AXONOMETRIC - SOUTH



1 AXONOMETRIC - EAST

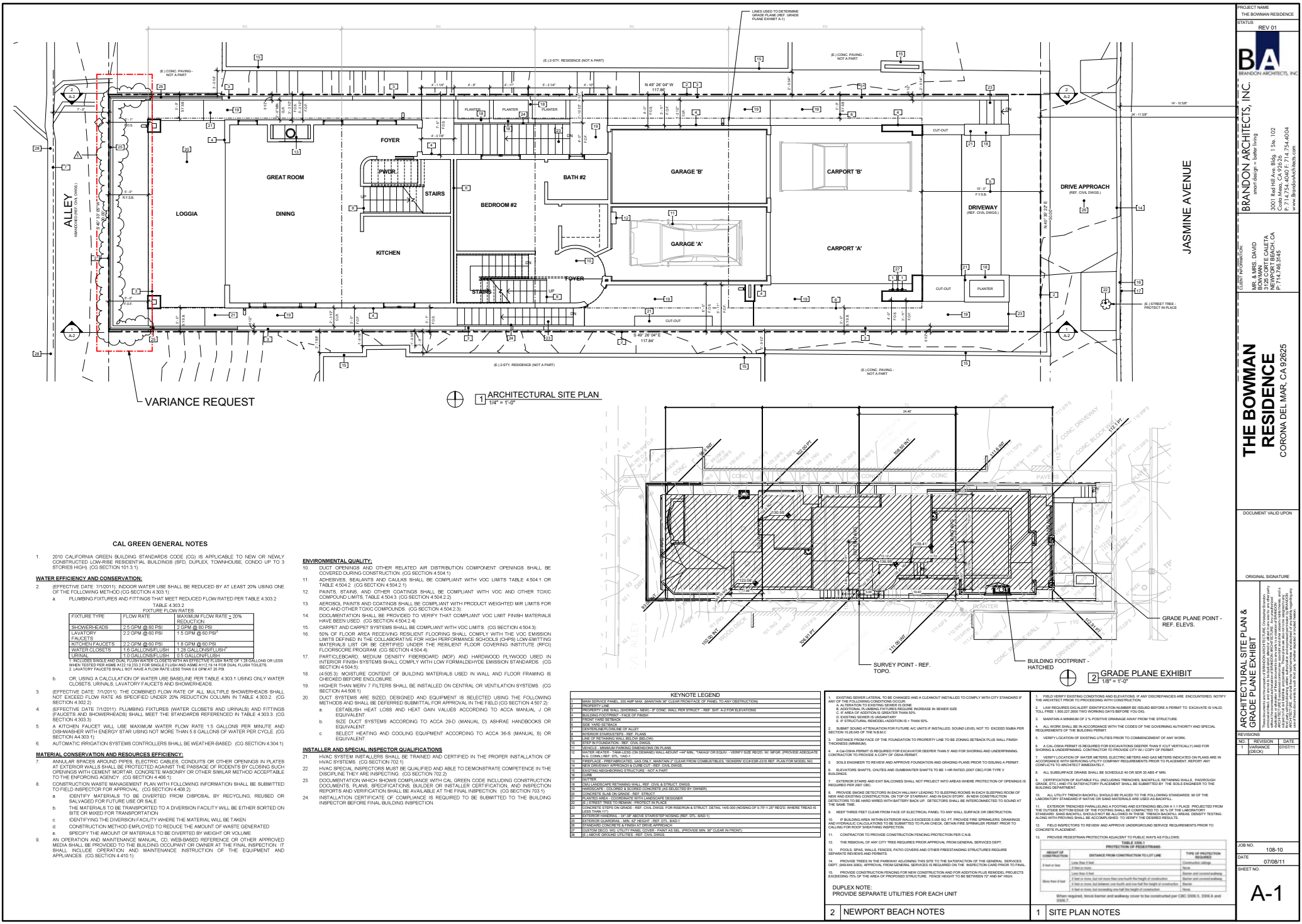


3 AXONOMETRIC - WEST



2 AXONOMETRIC - NORTH

PROJECT NAME THE BOWMAN RESIDENCE	
STATUS REV 01	
 BRANDON ARCHITECTS, INC. 3001 Red Hill Ave. Bldg. 13n, 102 Costa Mesa, CA 92626 P: 714.754.4604 F: 714.754.4034 WWW.BRANDONARCHITECTS.COM	
CLIENT INFORMATION MR. & MRS. DAVID BOWMAN 1000 E. GALE ST. NEWPORT BEACH, CA P: 714.748.9145	
THE BOWMAN RESIDENCE CORONA DEL MAR, CA 92625	
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ORIGINAL SIGNATURE	
3-DIMENSIONAL VIEWS <small> Views created in accordance with the provisions of the California Building Code, Chapter 7, Part 2, Section 702.1. The views are intended to provide a three-dimensional representation of the proposed project. The views are not to be used for any other purpose. The views are not to be used for any other purpose. The views are not to be used for any other purpose. </small>	
NO. / PROVISION / DATE 1 / 1 / 08/11	NO. / PROVISION / DATE 1 / 1 / 08/11
SHEET NO. A-0	SHEET NO. A-0



PROJECT NAME
THE BOWMAN RESIDENCE

STATUS
REV 01

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RESIDENCE
CORONA DEL MAR, CA 92626

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NO. 1
1. VARIANCE
1.00/11

DATE
07/08/11

JOB NO.
108-10

DATE
07/08/11

SHEET NO.
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A-1

STAIRWAY NOTE:
ALL STAIRWAYS SHALL HAVE AN ILLUMINATION LEVEL ON TREAD RUNS OF NOT LESS
THAN 1 FOOT CANDLE (CBC 1205.4)

NOTE: ALL DIMS. ARE TO FACE OF STUD (F.O.S.) TYP. U.N.O.

DOCUMENT VALID UPON

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TEL

INDEX

& S

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














FF	The only software that works on all PCs
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108-10

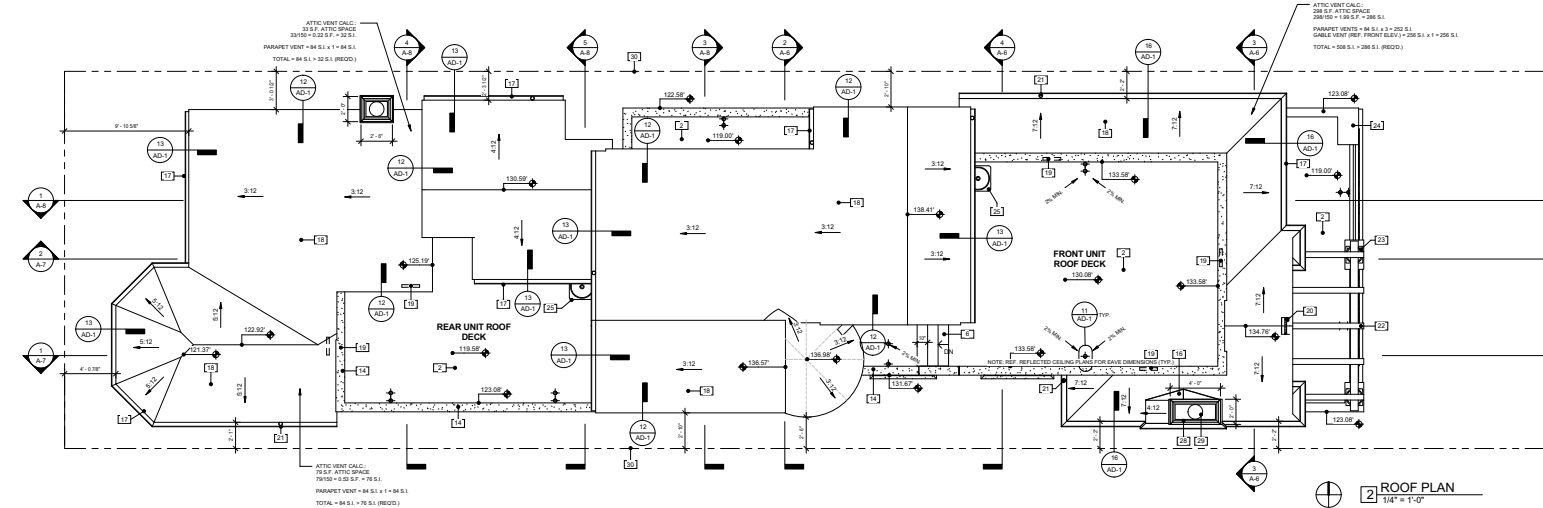
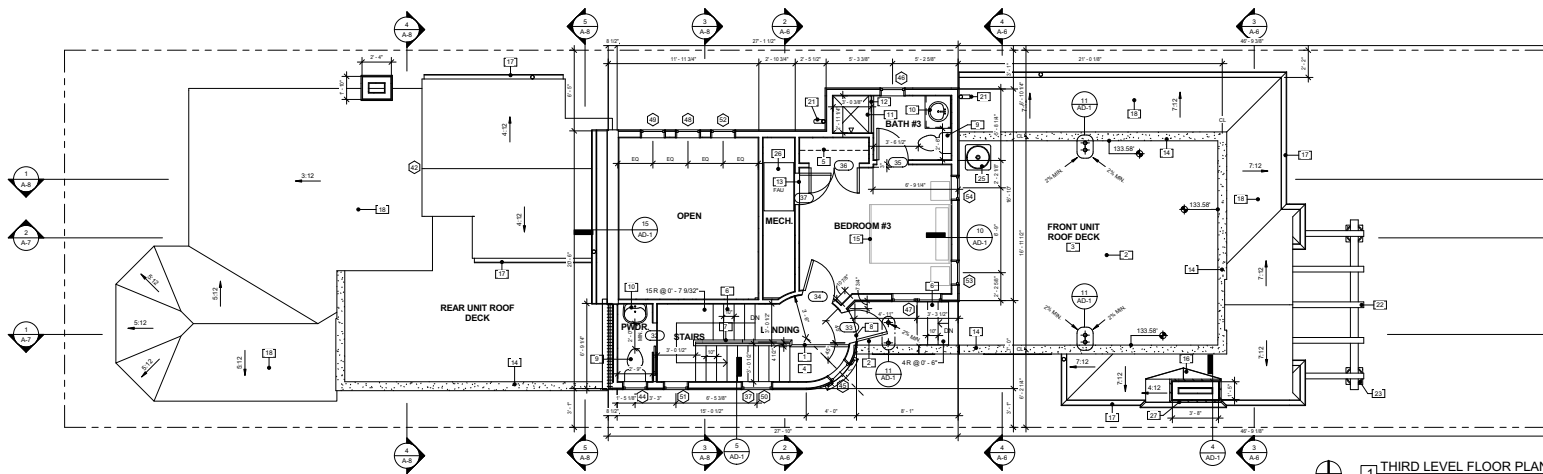
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	FIRE RATED CEILING ASSY. REF. DTLS. 7/AD-1 & 9/AD-1
	SOUND & FIRE RATED EXT. PARTITION REF. DTL. 15/AD-1
	SOUND & FIRE RATED INT. PARTITION REF. DTL. 14/AD-1
	FIRE RATED PARTITION REF. DTL. 7/AD-1
	NEW WALL - 2 x 6 STUDS @ 16" O.C.
	NEW WALL - 2 x 4 STUDS @ 16" O.C.
	WALL W/ STONE VENEER - 2 x 6 STUDS @ 16" O.C.
	CONCRETE RETAINING WALL - REF. STRUCTURAL
	CONCRETE MASONRY WALL - 8" CMU U.N.O.
	DOUBLE WALL CONSTRUCTION - 2 x 4 MIN. STAGGERED STUD @ 16" O.C.
	WINDOW - REFERENCE SCHEDULE
	DOOR - REFERENCE SCHEDULE
	CABINET - BUILT IN CASEWORK
	COLUMN - WOOD, REF. STRUCTURAL DWGS.
	FURNITURE - FOR PRESENTATION PURPOSES ONLY
	FIREPLACE - PREFAB GAS-ONLY APPLIANCE
	PLUMBING FIXTURE - SINK (AS SELECTED)
	PLUMBING FIXTURE - TOILET (AS SELECTED)
	LIGHTING FIXTURE - REFERENCE ELECTRICAL PLANS

PLAN LEGEND

A-3



NO.	REVISION	DATE
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PROJECT NAME

THE BOWMAN RESIDENCE

STATUS

REV 01

BRANDON ARCHITECTS, INC.

3001 Red Hill Ave. Bldg. 13n. 102

Corona Meno, CA 92626

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NEWPORT BEACH, CA

P: 714.746.9445

WWW.BOWMANARCHITECTS.COM

DOCUMENT VALID UPON

REVISION

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THIRD LEVEL FLOOR PLAN & ROOF PLAN

1. THE NET FREE VENTILATING AREA SHALL NOT BE LESS THAN 1/100 OF THE ATTIC AREA.

2. 50% OF THE REQUIRED VENTILATION AREA MUST BE LOCATED AT LEAST 3 FEET ABOVE EAVE OR CORNER WITHIN THE BALANCE PROVIDED BY EAVE OR CORNER VENTS.

3. OPENINGS SHALL HAVE CORROSION RESISTANT 3/8" OR HEAVIER OR CORROSION APPROVED MATERIAL WITH 1/8" MIN. AND 1/2" MAX. OPENINGS.

JOB NO.

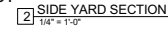
108-10

DATE

07/08/11

SHEET NO.

A-4



KEYNOTE LEGEND	
24	EXTERIOR LIGHTING - TO BE HIGH EFFICIENCY LOW EFFICIENCY MAY BE PROVIDED PER ELECTRICAL NOTE #33
25	PRE-CAST CONCRETE FASCIA - MATCH TO EXISTING CONCRETE ON EXISTING WALL
26	ROOF FINISHES - SEE FINISHES
27	ROOF SLOPES - SEE ELEVATION
28	FLOOR FINISHES - SEE FINISHES
29	CEILING FINISHES - SEE FINISHES
30	CEILING FINISHES - CEILING MOUNT (A/C RECESS)
31	CEILING FINISHES - RECESSED DOWNLIGHTS AS SELECTED
32	CEILING FINISHES - COVER OF DOWNLIGHTS AS SELECTED
33	CEILING FINISHES - COVER OF DOWNLIGHTS AS SELECTED
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97	CEILING FINISHES - COVER OF DOWNLIGHTS AS SELECTED
98	CEILING FINISHES - COVER OF DOWNLIGHTS AS SELECTED
99	CEILING FINISHES - COVER OF DOWNLIGHTS AS SELECTED
100	CEILING FINISHES - COVER OF DOWNLIGHTS AS SELECTED



Staff Presentation

Item No. 3.2

Bowman Variance

PA2011-099

BOWMAN VARIANCE VA2011-008

Planning Commission

July 21, 2011

403 Jasmine Avenue



Alley View - First St.



Alley View – First St.



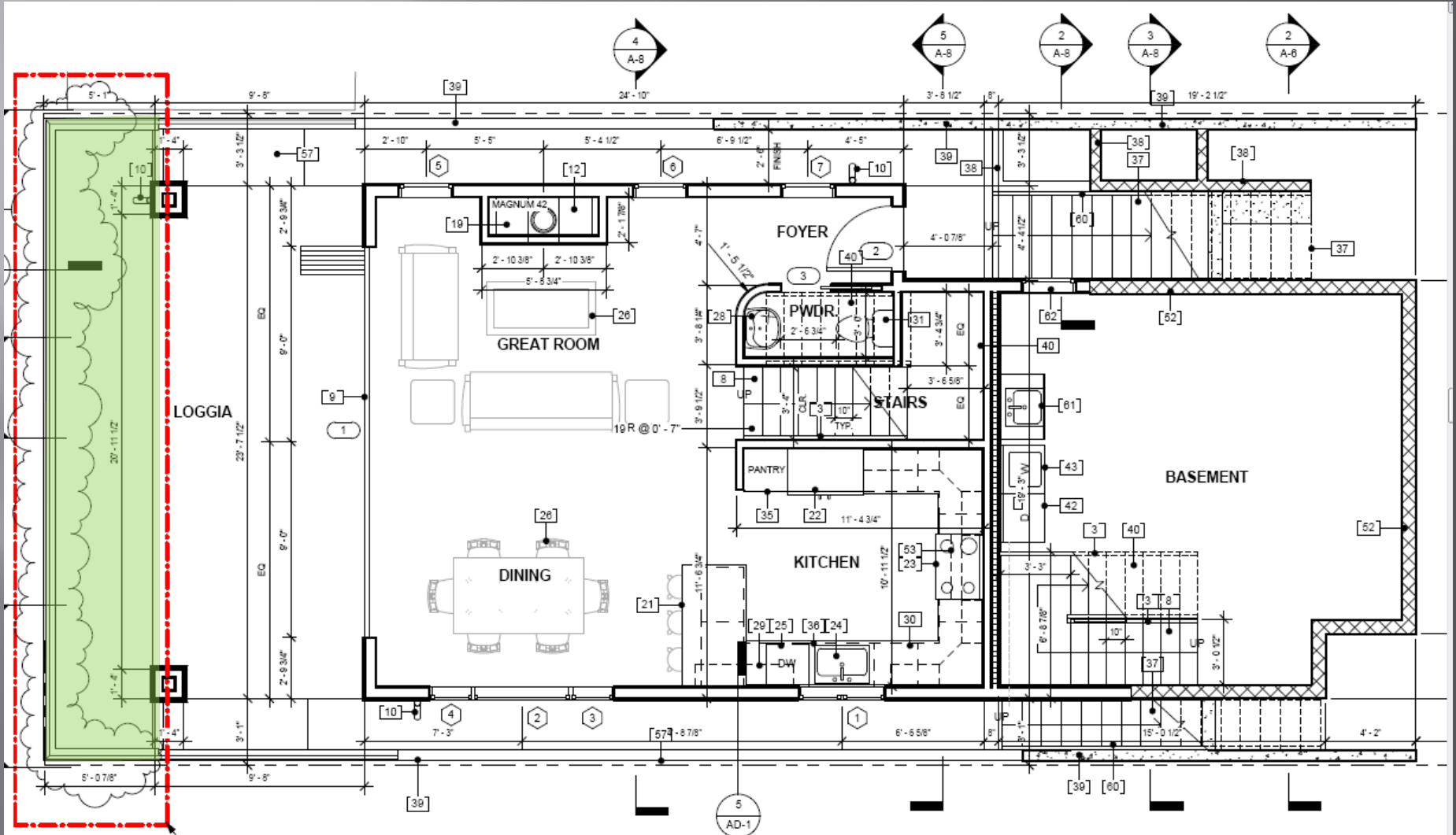
Alley View – City Park



Existing Alley Improvements

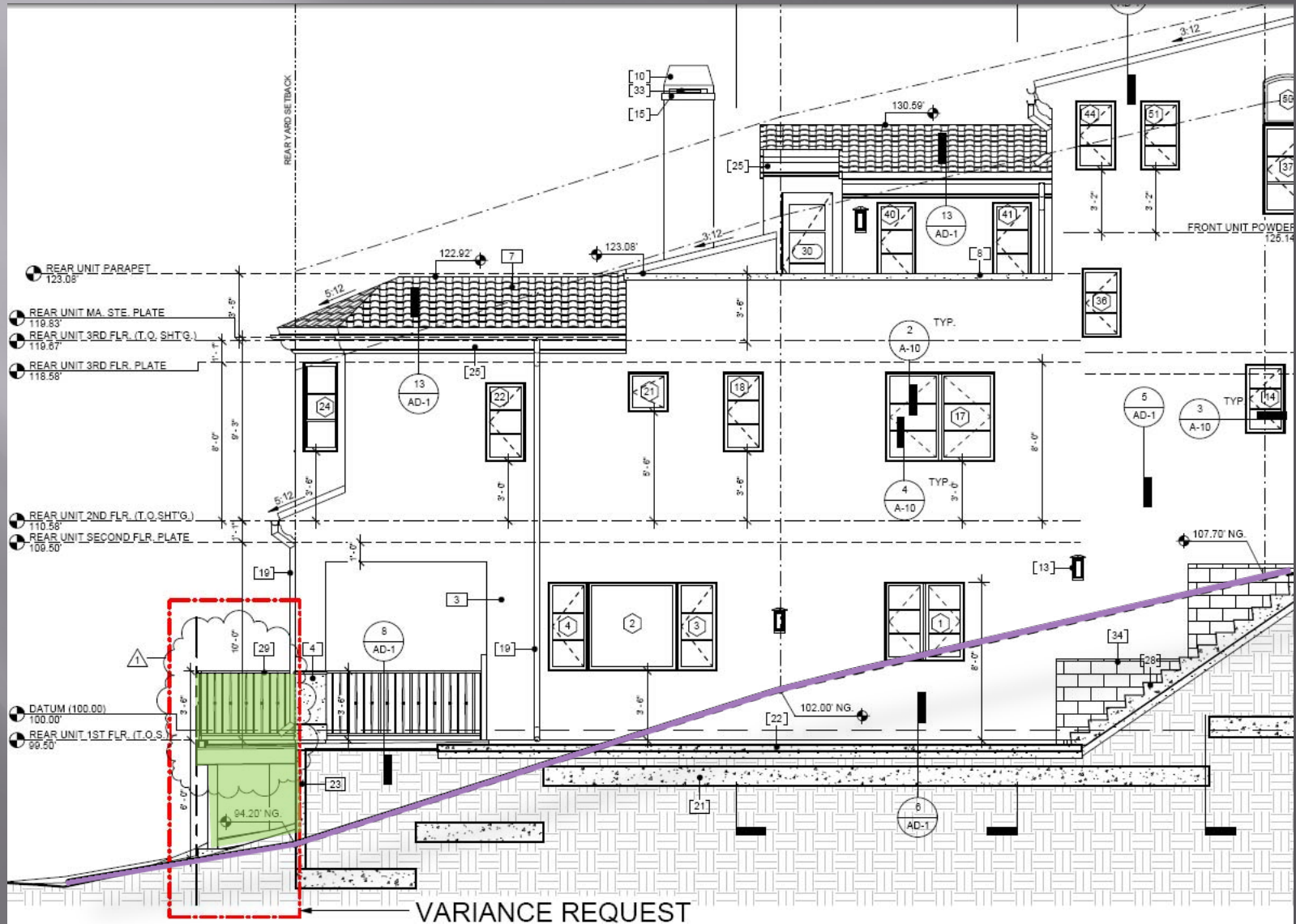


Floor Plan

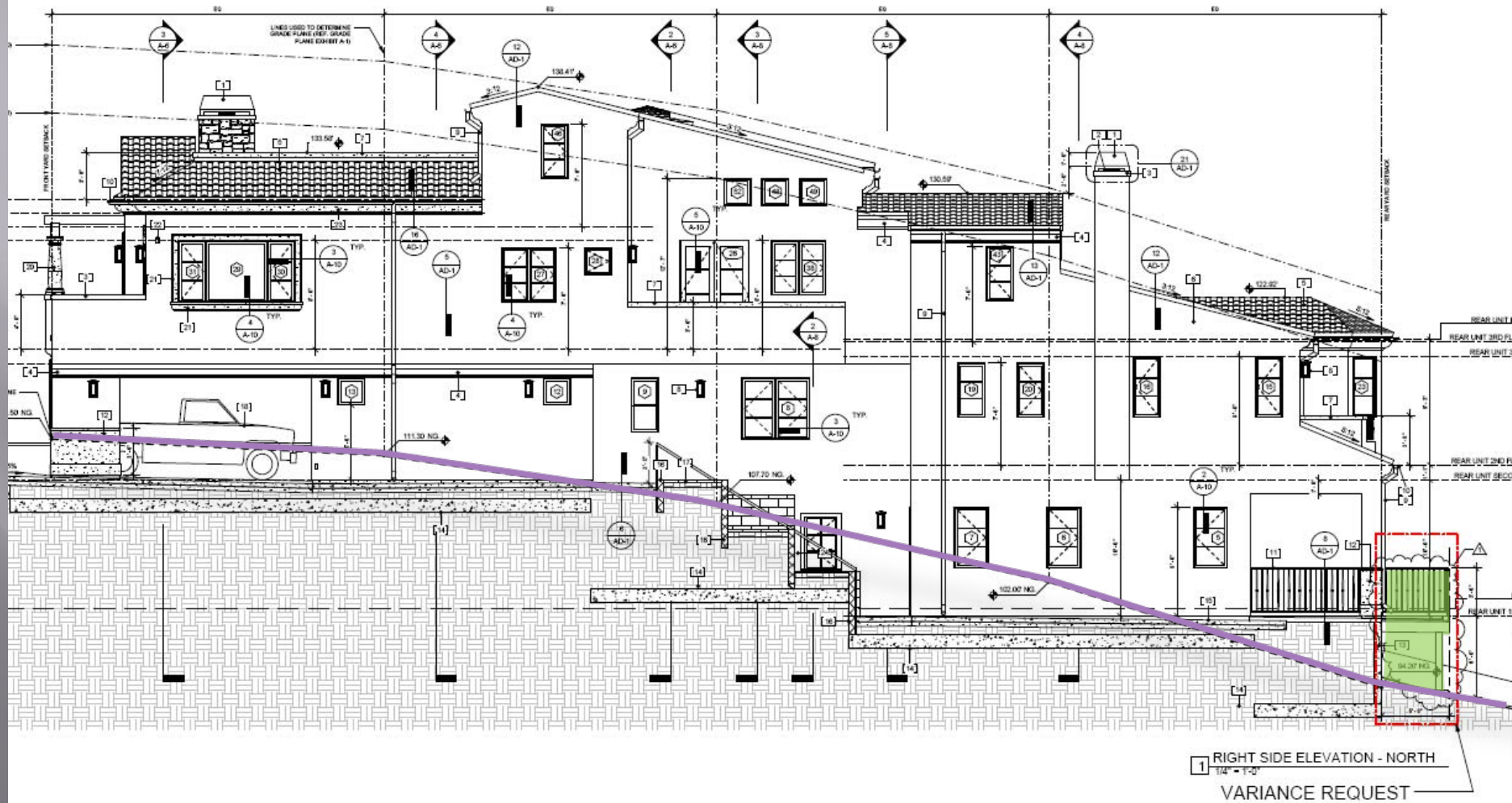


VARIANCE REQUEST

VARIANCE REQUEST

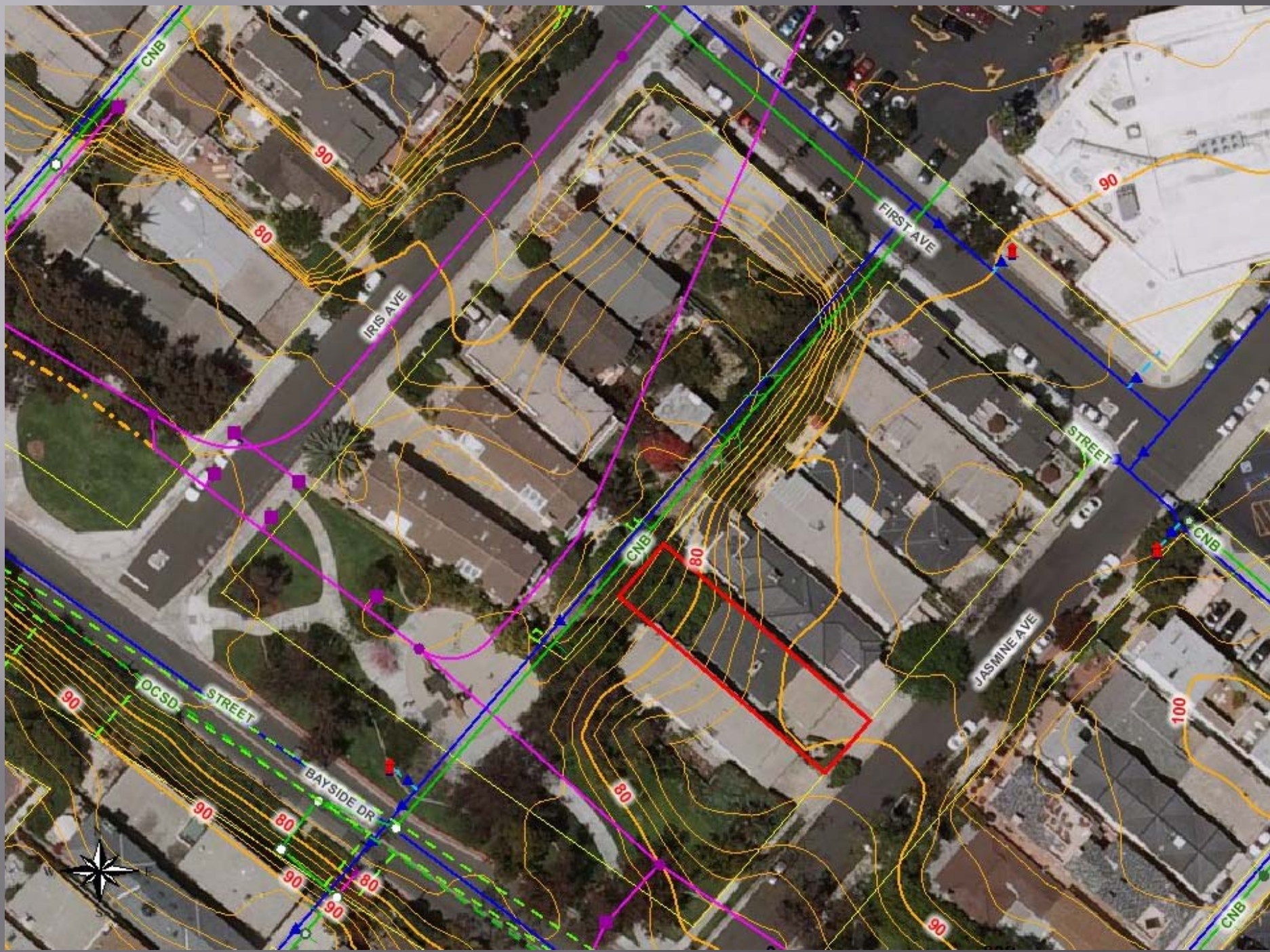


Complete Elevation



Revised Condition No. 11

In the event the alley is improved in the future, or if the City decides to utilize the alley right-of-way for any reason for which the City in its sole and absolute discretion determines that the deck and guardrail should be removed, the property owner is required, at their own expense, to remove the deck and guardrail encroachment within the rear 5-foot alley setback. Should the property owner fail to remove the deck and guardrail encroachment in a timely manner, the City may remove the deck and guardrail encroachment and recover the costs of removal from the property owner. The property owner shall not be entitled to any compensation from the City for the removed deck and guardrail.



**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

July 21, 2011 Hearing

Agenda Item 4

SUBJECT: Monrovia Ave Amendments:
1537 Monrovia Avenue (PA2011-082)
 ▪ General Plan Amendment No. GP2011-005
 ▪ Code Amendment No. CA2011-008
1539 Monrovia Avenue (PA2011-105)
 ▪ General Plan Amendment No. GP2011-006
 ▪ Code Amendment No. CA2011-009

APPLICANTS: Allred Newport LLC, and Dvorak & Payne LTD

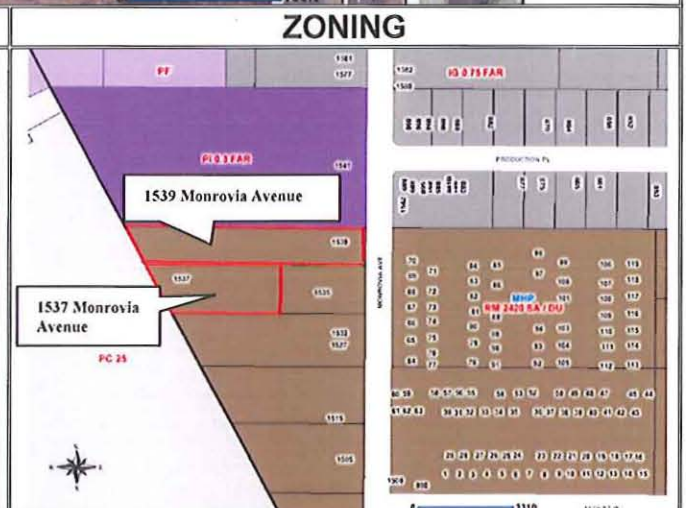
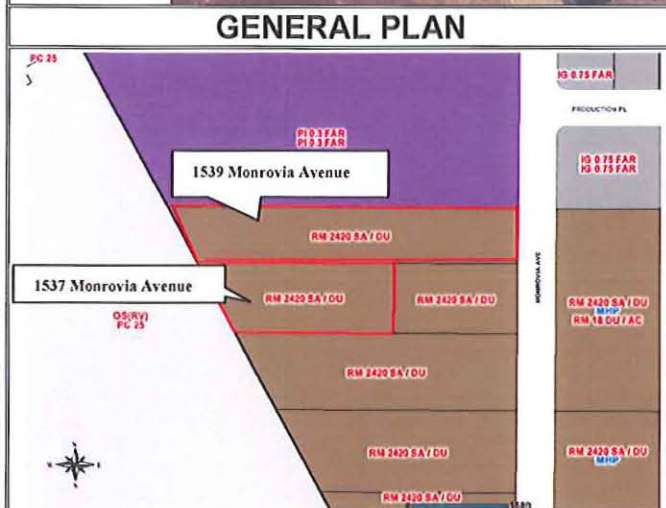
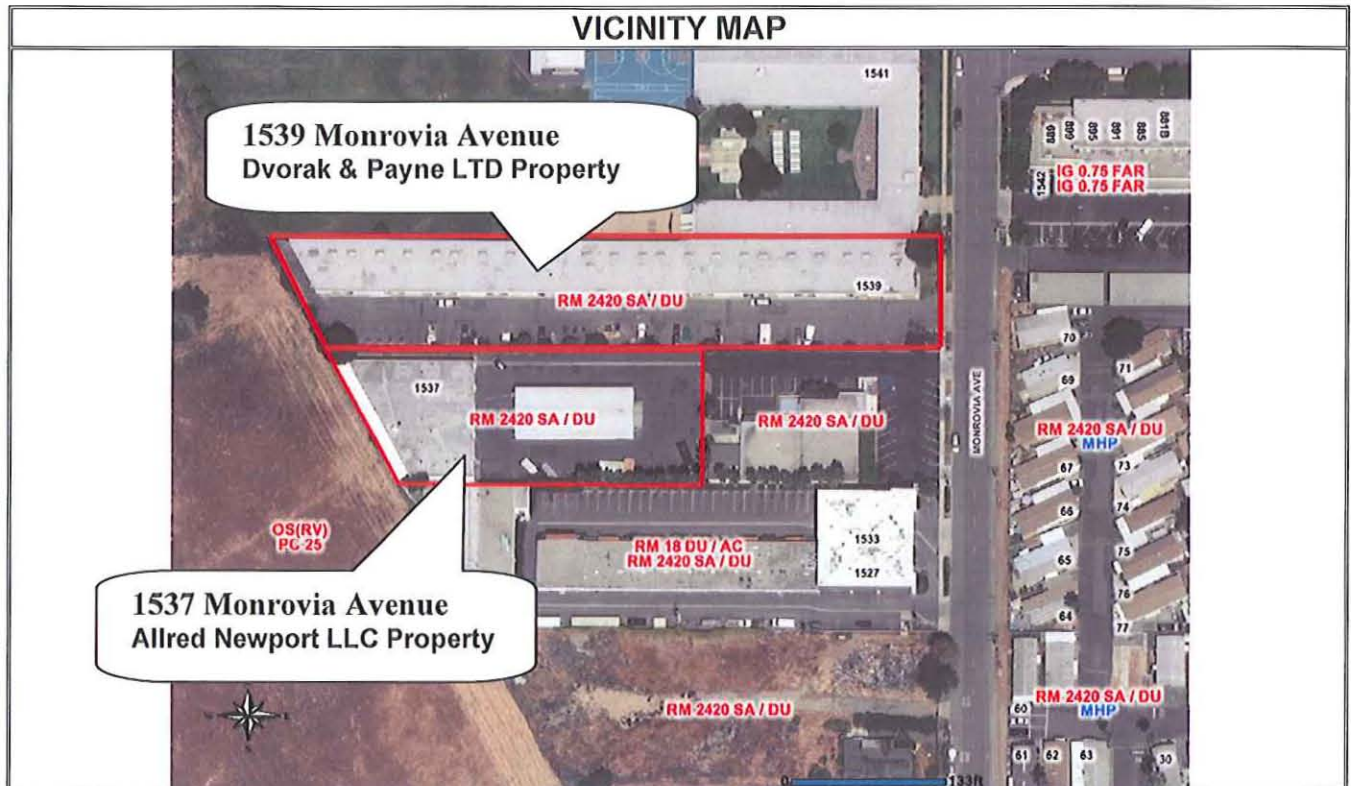
PLANNER: Javier S. Garcia AICP, Senior Planner
(949) 644-3206, jgarcia@newportbeachca.gov

PROJECT SUMMARY

Amendments to the General Plan and Zoning Map to change the designation of the subject properties from Multi-Unit Residential [(RM (2420)] to IG 0.50 FAR (General Industrial) land use designations; and to change the zoning designation from Multi-Unit Residential (RM) to Industrial 0.50 FAR (IG 0.50) zoning district. The amendments were initiated by the property owners who seek to continue the existing nonconforming industrial uses of the properties. The properties are currently developed with a light industrial use buildings, and no new land uses or development is proposed at this time.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ (Attachment No. PC 1) and attached Exhibits recommending the City Council:
 - Approve General Plan Amendment No. GP2011-005; and
 - Approve Code Amendment No. CA2011-008.
- 3) Adopt Resolution No. ____ (Attachment No. PC 2) and attached Exhibits recommending the City Council:
 - Approve General Plan Amendment No GP2011-006;
 - Approve Code Amendment No. CA2011-009.



CHANGES: CURRENT to PROPOSED		
LOCATION:	GENERAL PLAN:	ZONING:
1537 MONROVIA AVENUE and 1539 MONROVIA AVENUE	RM (Multi-Unit Residential) to IG-0.50 (General Industrial)	RM (2420) (Multi-Unit Residential) to IG-0.50 (Industrial)
SURROUNDING USES:		
North, South, East, and West	PI (Private Institution) RM (Multi-Unit Residential) Open Space- Banning Ranch	PI (Private Institution) RM (2420) (Multi-Unit Residential) Specific Plan – Banning Ranch

INTRODUCTION

Project Setting

The two subject properties are located on the west side of Monrovia Avenue in the West Newport Mesa Area. Both are designated by the Land Use Element of the General Plan and the Zoning Code for Multi-Unit Residential use. The subject properties are bounded on the north by Carden Hall Private School; and to the south by the Coast Community College District project that began construction in 2010. To the west, abutting the subject properties is vacant land designated for open space by the Banning Ranch Planned Community District. To the east across Monrovia Avenue is a mobile home park that is currently designated and zoned for Multi-Unit Residential uses (RM); and industrial uses on Production Place that are located on properties designated and zoned for industrial uses (IG).

The subject property located at 1537 Monrovia Avenue has a land area of approximately 33,580 square feet and is currently occupied by two light industrial buildings and uses (totaling 15,000 square feet) that are nonconforming with the General Plan and the Zoning Code (Photos and Relevant Information in Attachment PC4). Current intensity of the existing buildings is approximately 0.45 FAR and is used for an art and framing use in the smaller building; and support facilities associated with Toes on the Nose that include shipping and distribution center in the larger building at the rear of the property.

The subject property located at 1539 Monrovia Avenue has a land area of approximately 49,642 square feet and is currently occupied by a 24,000 square foot, single-story, light industrial/warehouse building and uses that are nonconforming with the General Plan and the Zoning Code. The applicant has also provided the attached statement in support of the application (Photos and Relevant Information in Attachment PC5). Current intensity is approximately 0.50 FAR and the building is occupied by various storage, service businesses, and light industrial uses with related offices.

Background

The West Newport Mesa Area of the City, more specifically known as the County Triangle, was annexed to the City of Newport Beach in October 1979.

On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update"). In conjunction with the update, the land use designation of the subject properties was changed from industrial to residential.

On January 28, 2008, the City Council adopted Ordinance No. 2008-05, which in addition to other Zoning Code changes, established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until the finalization of the City's Local Coastal Plan

(LCP), which occurred on July 14, 2009, and the subsequent Zoning Code Update which was effective November 25, 2010.

On October 25, 2010, the City Council Adopted a Comprehensive Update to the Zoning Code (Newport Beach Municipal Code Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The result of that action rendered several properties nonconforming, including the subject properties, which in accordance with Ordinance No. 2008-05 became subject to abatement.

The subject application does not include a specific project for development on either property at this time. The proposed land use changes would allow the retention of the existing land use and allow for future development in accordance with the standards of the proposed zoning district.

DISCUSSION

Analysis

Amendments to the General Plan Land Use Plan and Zoning Code are legislative acts. Neither City nor State Planning Law sets forth required findings for approval or denial of such amendments. However, when making a recommendation to the City Council, the Planning Commission should consider applicable policies and development standards to ensure internal consistency.

Neighborhood Compatibility

Staff believes that the current activities at the subject properties will be compatible with the adjacent neighboring institutional uses and the current mobile home park and future multi-residential uses across Monrovia Avenue. Those activities include the following:

1537 Monrovia Ave, the applicant has submitted the following information.

Main Building (11,000 sq. ft.) at the rear of the property:

1. Design, distribution, administration and support of retail surf shops and schools.
2. Lease space to other distributors of footwear, handbags, sweaters and a wholesale wine distributor.
3. A small internal assembly shop, for the Toes on the Nose, that makes retail signs and displays, totals 600 sq. ft. interior space.

The small building (4,000 sq. ft.) at the front of the property:

4. Fine antique sales to designers,
5. picture framing and
6. custom art.

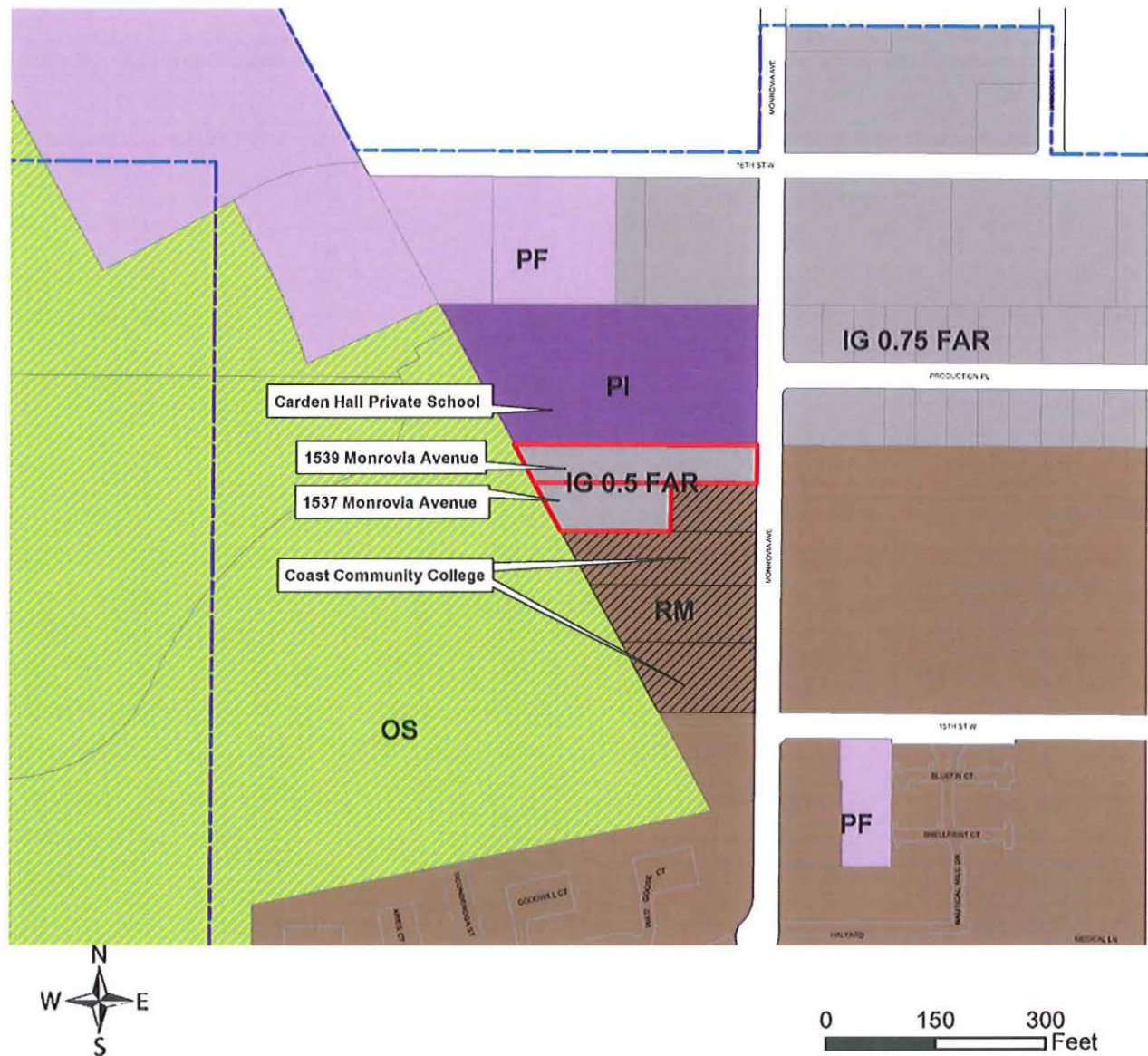
1539 Monrovia Avenue is comprised of 24 individual tenant spaces of 1,000 to 1,500 square feet each. Those tenants include such things as: carpet installer warehouse and office, various service uses and storage related facilities and other light industrial and storage/warehouse uses.

The Carden Hall Private School was established in 1961 when it was a part of the County Triangle and annexed to Newport Beach in 1979. Upon annexation, the school was bounded to the north, south and east across Monrovia Avenue by industrial buildings and uses. The light industrial and warehouse uses to the south have not been detrimental to the school use. The northerly side of the building located at 1539 Monrovia Avenue (Dvorak Property) has a blank building wall on the property line with no window or door openings facing the school. This has allowed the school to utilize the building wall for such outdoor activities such as handball courts. The owner of 1539 Monrovia Avenue, which abuts Carden Hall (private school to the north) has spoken with the headmaster about the proposed amendment. The owner indicated that it was the headmaster's opinion that the existing light industrial building, with the blank wall facing the school, is not detrimental to the school operation. Also the introduction of multi-unit residential has the potential to cause compatibility issues related to noise and traffic, which could be detrimental to occupants and users of both properties. Residential traffic could have a detrimental effect on the school-related drop-off traffic in the morning and afternoons when school is in session.

The Coast Community College District project, located to the south of the 1537 Monrovia Avenue property (Allred Newport LLC), is currently under construction, which began in latter part of 2010. The community college project will create an adult education facility that will include daytime and evening classes. The existing light industrial and warehouse uses that have been in place since the early 1970's are not anticipated to be detrimental to the activities associated with the college. It is anticipated that there may be some complementary or synergistic opportunities between the two uses related to jobs, internships or possibly hands-on activities associated with the college classes. Staff believes that potential future multi-unit residential use, as currently designated by the General Plan and Zoning Map, that is sandwiched between two institutional uses could be negatively impacted by the traffic associated with the college project by students attending daytime and evening. Parking could also become an issue if the parking provided for students cannot be adequately accommodated on the college campus, which could result in overflow parking near a potential future residential project. Finally, there is potential for noise related impacts on adjacent residential uses by college related traffic in the evening hours after 10 pm or possibly later.

Seacliff Mobile Home Park is located across Monrovia Avenue and is designated by the General Plan for multi-unit residential land use. The current on site uses and the residential mobile home park have been in existence since before annexation into the City. The current industrial uses which are proposed to continue are not anticipated to create any incompatibility.

Located to the west of the subject properties is the Banning Ranch Specific Plan area that is currently vacant. The current proposal under consideration would place a community park adjacent to the sites. It is anticipated that neither an active or passive park use adjacent to the subject properties will be adversely affected by the existing or any proposed future industrial uses that may occupy the subject properties.



General Plan

The Land Use designation of the subject properties prior to the adoption of the current General Plan was for a mixture of General Industry, Retail and Service Commercial, and Administrative, Professional and Financial Commercial land use which reflected the existing development patterns. The permitted Floor Area Ratio (FAR) was variable 0.50/0.75, with 0.50 as the base allocation. The 0.75 FAR was an upper limit that was

subject to discretionary review requirements. The recommended 0.50 FAR for the proposed amendments is consistent with the base FAR limitation of the prior General Plan.

The proposed IG designation is intended to provide for the development of properties for a wide-range of moderate to low-intensity industrial uses, such as light manufacturing and research and development and limited ancillary commercial and office uses, with a maximum floor area to land area ratio (FAR) of 0.50 is recommended. Although the IG designated sites located on Production Place have a General Plan FAR of 0.75, staff is of the opinion that an FAR of 0.50 is appropriate for the subject properties. The 0.50 limitation is consistent with the amount of existing gross floor area currently constructed on the 1539 Monrovia Avenue property and will allow for a modest increase on the 1537 Monrovia Avenue property. IG designated sites may also be developed exclusively for retail or offices in accordance with the list of permitted uses provided in the Zoning Code.

In considering the proposed General Plan Amendment, the Planning Commission should consider the following Land Use Element policy:

Policy LU 3.3 - Opportunities for Change states in part as follows:
(Newport Beach General Plan, pp. 3-9)

Provide opportunities for improved development and enhanced environments for residents in the following districts and corridors...

- *West Newport Mesa:* re-use of underperforming commercial and industrial properties for offices and other uses that support Hoag Hospital's medical activities, improvement of remaining industrial properties adjoining the City of Costa Mesa, accommodation of nonwater marine-related industries, and development of residential in proximity to jobs and services.

The amendments will provide continued use of the buildings for light industrial use as currently designed in furtherance of the policy. Approval of the amendment will allow the continuation of the existing industrial use development that would not be subject to abatement and therefore avoid the near term result of creating vacant buildings on Monrovia Avenue. The presence of vacant storefronts has the opposite effect of revitalization.

Goal LU 6.7

A general industrial district that transitions between the Hoag Hospital medical and residential community and industrial uses in the City of Costa Mesa, providing opportunities for needed uses that cannot be accommodated elsewhere in Newport Beach.

Policy LU 6.7.1 Primary Uses

Encourage the development of small-scale incubator industries.

Policy LU 6.7.2 Marine Based Businesses

Encourage and provide incentives for the relocation of marine-based Newport Beach businesses, including boat storage and recreational vehicles, to properties retained for industrial purposes.

The proposed amendments do not conflict with Goal 6.7. The development of the Coast Community College District Learning Center south of the subject properties has precluded a significant portion of the possible residential development envisioned for the west side of Monrovia Avenue. The proposed amendments will provide opportunities for small light industrial or office businesses to continue where there are limited numbers of available sites elsewhere in the City. Furthermore, the proposed amendments are consistent with Policies LU 6.7.1 and LU 6.7.2. The subject properties are already developed with industrial buildings that can accommodate the type of small-scale incubator industries called for by Policy LU 6.7.1. Future use of the subject properties as boat and/or recreational vehicle storage would be consistent with Policy LU 6.7.2 and would provide an industrial use that is compatible with the abutting institutional uses.

Housing Element

The sites if redeveloped with housing at the maximum density allowed by the current General Plan would be 33 dwelling units. The reduction in housing potential should these amendments be approved is not significant given the anticipated housing production within other areas of the city such that the approval will not impede the city's ability to achieve housing production goals as set forth by Southern California Area of Governments (SCAG).

Zoning Code

The IG Zoning District is intended to provide for areas appropriate for a wide range of moderate to low-intensity industrial uses (e.g., light manufacturing and research and development) and limited accessory commercial and office uses. The IG district allows development of industrial projects with a maximum floor area ratio (FAR) ranging from between 0.25 to 0.75. In this particular case, staff recommends an FAR limitation of 0.50 FAR which is consistent with the existing development on the subject properties and avoids a vote of the electorate pursuant to Measure S (Charter Section 423). The applicants have been advised of this recommendation and have raised no objections. Residential uses are not allowed.

The stated purpose and intent of the Zoning Code is to carry out the policies of the City of Newport Beach General Plan. Consistency between the General Plan and zoning designation is critical to ensure orderly development and enforcement. With regard to the subject property, existing industrial development would conform to the standards of the proposed IG Zoning District; the continued industrial uses would be allowed without

abatement. Future new development would require conformance with applicable development and parking standards.

Under the existing RM (2420) zoning designation, the 1537 Monrovia Avenue property could be developed with a maximum of 13 dwelling units and would require a total of 20 parking spaces; and the 1539 Monrovia Avenue property could be developed with a maximum of 20 dwelling units and would require 50 parking spaces. The main purpose of the requested amendment is to maintain the existing industrial use development.

The charts below demonstrate how the subject properties could be developed under the recommended intensity allowance and the maximum intensity allowance for IG zoning designation, and minimum parking requirements for each. The parking requirement for industrial development is one (1) space for every 1,000 square feet of gross floor area.

Recommended IG designation:

Industrial Use (0.50 FAR)			Parking	
	Lot Area	Maximum FAR	Minimum	
1537 Monrovia Ave	33,580 sf	16,790 sf (0.50 FAR)	17 (16,790 sf @ 1/1,000)	
1539 Monrovia Ave	49,642 sf	24,821 sf (0.50 FAR)	25 (24,821 sf @ 1/1,000)	
Total	83,222 sf.	41,611 sf.	42 spaces	

Maximum Allowed IG designation:

Industrial Use (0.75 FAR)			Parking	
	Lot Area	Maximum FAR	Minimum	
1537 Monrovia Ave	33,580 sf	25,185 sf (0.75 FAR)	26 (25,185 sf @ 1/1,000)	
1539 Monrovia Ave	49,642 sf	37,231 sf (0.75 FAR)	38 (37,231 sf @ 1/1,000)	
Total	83,222 sf.	62,416 sf.	64 spaces	

As demonstrated, under the recommended maximum industrial intensity allowance (0.5 FAR) the subject properties could be developed with up to 16,790 and 24,821 square feet of industrial development, respectively. The total of all existing building currently located on the subject properties will comply with the 0.50 FAR limitation recommended.

Charter Section 423 (Measure S) Analysis

Pursuant to City Charter Section 423 and Council Policy A-18, an analysis must be prepared to establish whether a proposed general plan amendment (if approved) requires a vote by the electorate. The proposed amendment would be combined with 80 percent of the increases in traffic, dwelling units and non-residential floor area created by previous general plan amendments (approved within the preceding 10 years) within the same statistical area. However, since there have been no previous amendments within

this statistical area, only the change as apply to these amendment are provided in Table 1. The following thresholds are applicable: 100 dwelling units, 100 A.M. peak hour trips, 100 P.M. peak hour trips, or 40,000 square feet of non-residential floor area. If any of the thresholds are exceeded and the City Council approves the requested General Plan Amendments, the amendments would be classified as a "major amendment" and be subject to voter consideration. Approved amendments, other than those approved by the electorate, are tracked for 10 years and factored into the analysis of future amendments as indicated.

Table 1, summarizes the increase in area, peak hour traffic (A.M. and P.M.) and reduction in the number of dwelling units created by the proposed amendments with the recommended IG designation at 0.50 FAR. The increases indicated in the table are based upon the city taking action on each amendment request separately and sequentially, where only 80% of the First Amendment (GP2011-005) changes are added to the Second Amendment (GP2011-006) changes. As indicated, none of the four (4) thresholds would be exceeded, and therefore, a vote is not required. A more detailed analysis is attached (Attachment No. PC 6).

Table 1: Charter Section 423 Analysis Summary Statistical Area A2				
	Increased Floor Area	Increased A.M. Peak Hour Trips	Increased P.M. Peak Hour Trips	Increase In Allowed Dwelling Units
Proposed GP2011-005 1537 Monrovia Ave (Action 1)	16,790 sq. ft.	11.1	9.8	0
GP2011-005 is a minor amendment.				
GP2011-005 at 80%	13,432 sq. ft.	8.9	7.8	0
Proposed GP2011-006 1539 Monrovia Ave (Action 2)	24,821 sq. ft.	16.0	14.0	0
TOTALS (IG is permitted)	38,253 sq. ft.	24.9	21.8	0
GP2011-006 is a minor amendment.				

SB18 Tribal Consultation Guidelines

Pursuant to Section 65352.3 of the California Government Code, a local government is required to contact the appropriate tribes identified by the Native American Heritage Commission (NAHC) each time it considers a proposal to adopt or amend the General Plan. If requested by any tribe, the local government must consult for the purpose of preserving or mitigating impacts to cultural resources. The City received comments from the NAHC indicating that nine (9) tribe contacts should be provided notice regarding the proposed project. The appropriate tribe contacts supplied by the NAHC were provided notice on May 19, 2011. Section 65352.3 of the California Government Code requires 90 days to allow tribe contacts to respond to the request to consult unless the tribe contacts mutually agree to a shorter time period.

The project sites are located in a geographic feature (mesa) which has not been significantly modified during the last century. The Newport Mesa area existed during the era of Native American settlement and has not been subject to significant landform alterations. Due to these factors, the City has contacted the nine (9) tribe contacts by telephone, email, and standard mail, and has not yet received any responses although the review period remains open. The Planning Commission may recommend the proposed project to City Council at this time. However, the City Council may not act on the proposed amendments until the tribe review period is concluded. Given that the sites are presently developed and that no development is proposed at this time, staff does not anticipate any conflicts or need for monitoring by the tribes. If any comments are received from the tribes, they will be forwarded to the City Council for consideration.

Environmental Review

The proposed amendments are exempt since they do not entail any significant alteration to the subject property and will bring the General Plan Land Use and Zoning District designations consistent with the present use of the subject property. The sites are presently developed and no development is proposed at this time for either property involved, however, future development of the existing property and structures consistent with the proposed IG designation would be categorically exempt under Section 15302 of the California Environmental Quality Act (CEQA) Guidelines – Class 2 (Replacement or Reconstruction).

Summary

The applicants have requested the amendment to allow retention of the existing industrial buildings and uses. The buildings were constructed in mid 1970's and were permitted uses at that time consistent with the provisions of the Zoning Code of the County of Orange. The subject properties are located within the County Triangle which was annexed in October 1979. The uses have been in existence for nearly thirty-eight years and its abatement at this time seems contrary to the General Plan Policies that

promote revitalization of the area. Continuation of these uses and future development consistent with the IG designation does not appear to conflict with the General Plan. Staff does not foresee any adverse environmental impacts with continued use or redevelopment. The approval of the General Plan Amendments to the IG-0.50 designation would not necessitate a vote of the electorate, as required by Section 423 of the City Charter.

Alternatives

Alternatives to the recommended or applicant proposed amendments could include disapproval of the request and retention of the existing General Plan and Zoning designations of Multi-Unit Residential. If it is the desire of the Planning Commission to disapprove the request in its entirety, the attached resolution for denial is provided (Attachment No. PC3, 1537 and 1539 Monrovia Avenue). However, such an action would require abatement of the existing nonresidential use in accordance with the provisions of the Zoning Code, Section 20.38.100.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the properties, and was posted at the site a minimum of ten days in advance of this hearing, consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:


Javier S. Garcia AICP,
Senior Planner

Submitted by:


James Campbell,
Principal Planner

ATTACHMENTS

- PC 1 Draft Resolution with attached Exhibit, 1537 Monrovia Ave
- PC 2 Draft Resolution with attached Exhibit, 1539 Monrovia Ave
- PC 3 Draft Resolution Denying the Amendment Requests, 1537 & 1539 Monrovia Ave
- PC 4 Relevant Information and Photos for 1537 Monrovia Avenue, PA2011-082
- PC 5 Relevant Information and Photos for 1539 Monrovia Avenue, PA2011-105
- PC 6 Section 423 Analysis Table

DRAFT RESOLUTION
With attachments
1537 Monrovia Avenue
(PA2011-082)

Exhibit A-
GP2011-005 and CA2011-008

ATTACHMENT No. PC 1

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING APPROVAL TO THE CITY COUNCIL AMENDMENTS TO THE LAND USE ELEMENT OF THE GENERAL PLAN AND THE ZONING CODE TO CHANGE THE LAND USE DESIGNATION FROM MULTI-UNIT RESIDENTIAL TO GENERAL INDUSTRIAL (IG-0.50) AND TO CHANGE THE ZONING DISTRICT TO IG-0.50 (INDUSTRIAL), FOR PROPERTY LOCATED AT 1537 MONROVIA AVENUE (PA2011-082)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. On October 7, 1979, the City Council annexed the County Triangle, portions of which were developed with industrial buildings and uses, and located at that time in the M-1-A Zoning District, on the property located at 1537 Monrovia Avenue.
2. On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update").
3. On January 28, 2008, the City Council adopted a new ordinance (Ordinance No. 2008-05) that established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until the finalization of the City's Local Coastal Plan (LCP), which occurred on July 14, 2009.
4. On October 25, 2010, the City Council Adopted a Comprehensive Update to the Zoning Code (Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The result of that action rendered numerous properties nonconforming, with existing commercial buildings and uses located within residential districts. In accordance with Ordinance No. 2008-05, mentioned above, those properties are subject to abatement.
5. An application was filed by Allred Newport LLC, with respect to the subject property located at 1537 Monrovia Avenue requesting approval of amendments to the General Plan and the Zoning Code to change the land use from multi-residential to industrial-use.
6. The subject property is currently located within the Multi-Unit Residential (RM) Zoning District and the General Plan Land Use Element category is Multi-Unit Residential Land Use (RM).

7. The recommended change of the General Plan designation of 1537 Monrovia Avenue is from Multi-Unit Residential (RM) to Industrial General (IG-0.50).
8. The recommended change of the Zoning District designation of 1537 Monrovia Avenue is from Multi-Unit Residential (RM) to Industrial (IG- 0.50).
9. Council Policy A-18 requires that proposed General Plan amendments be reviewed to determine if a vote of the electorate would be required. If a project (separately or cumulatively with other projects over a 10-year span) exceeds any one of the following thresholds, a vote of the electorate would be required if the City Council approves the suggested General Plan Amendment: more than 100 peak hour trips (AM or PM), adds 40,000 square feet or more of non-residential floor area, or adds more than 100 dwelling units in a statistical area.
10. This is the first General Plan Amendment that affects Statistical Area A2 since the General Plan update in 2006. A reduction in the number of dwelling units and the increase in non-residential floor area (16,790 sq. ft.) result in an increase of 11.1 A.M. peak hour trips and an increase of 9.8 P.M. peak hour trips based on the nonresidential, commercial and residential housing trip rates reflected in Council Policy A-18. As none of the four thresholds that require a vote pursuant to Charter Section 423 are exceeded, no vote of the electorate is required.
11. A public hearing was held on July 21, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 2 (Replacement or Reconstruction).
2. The proposed amendments are exempt since they do not entail any significant alteration to the subject property and are essentially bringing the General Plan Land use Designations and Zoning Districts to be consistent with the existing use of the buildings and properties involved.
3. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial

challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. FINDINGS.

1. The amendment will provide for continuation of existing uses that are compatible with the existing and future surrounding institutional uses (Carden Hall Private School and Coast Community College District).
2. The amendment is consistent with the goals and policies of the General Plan, in particular Policy LU 3.3, Opportunity for change, which will provide opportunities for improved development and enhanced environments for residents in the West Newport Mesa Area. The re-use of underperforming commercial and industrial properties for offices and other uses that support Hoag Hospital's medical activities, improvement of remaining industrial properties adjoining the City of Costa Mesa, accommodation of non-water marine-related industries, and will not conflict with the future development of residential in proximity to jobs and services.
3. The existing building and uses, and future development of the property affected by the amendments are consistent with the goals and policies of the General Plan, in particular, Policies LU 6.7.1 and LU 6.7.2, since the subject properties are currently developed with industrial buildings that can accommodate the type of small-scale incubator industries called for by Policy LU 6.7.1. The future use of the subject properties as boat and/or recreational vehicle storage is consistent with Policy LU 6.7.2, compatible with the abutting institutional uses, and consistent with the purpose and intent of the IG-0.50 zoning district of the Newport Beach Municipal Code.
4. The amendment will provide opportunities for small light industrial or office businesses to continue where there are limited numbers of available sites elsewhere in the City.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby recommends City Council approval of General Plan Amendment No. GP2011-005, changing the designation from Multi-Unit Residential (RM) to Industrial General (IG-0.50); and Code Amendment No. CA2011-008 changing the zoning designation from Multi-Unit Residential (RM) to Industrial (IG-0.50), affecting 1537 Monrovia Avenue, Statistical Area A2, legally described as Parcel 1 of Parcel Map 045/24 (Attachment Exhibit A).
2. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages,

actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Monrovia Ave Amendments (PA2011-082) including, but not limited to, General Plan Amendment No. GP2011-005 and Code Amendment No. CA2011-008. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicants shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicants shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

PASSED, APPROVED AND ADOPTED THIS 21st DAY OF JULY, 2011.

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

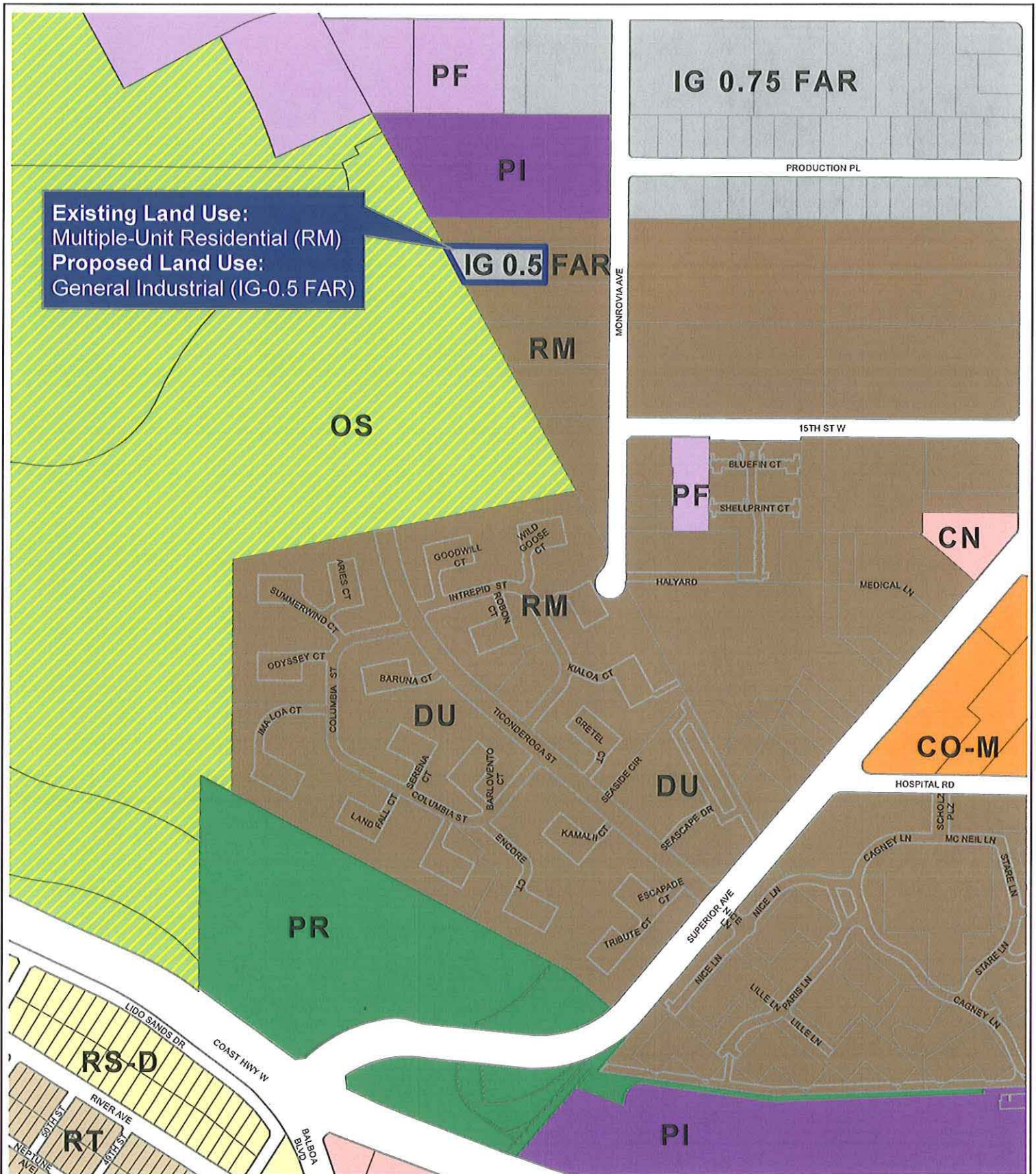
BY: _____
Charles Unsworth, Chairman

BY: _____
Bradley Hillgren, Secretary

EXHIBIT A-

1537 Monrovia Avenue
(PA2011-082)

GP2011-005 and CA2011-008

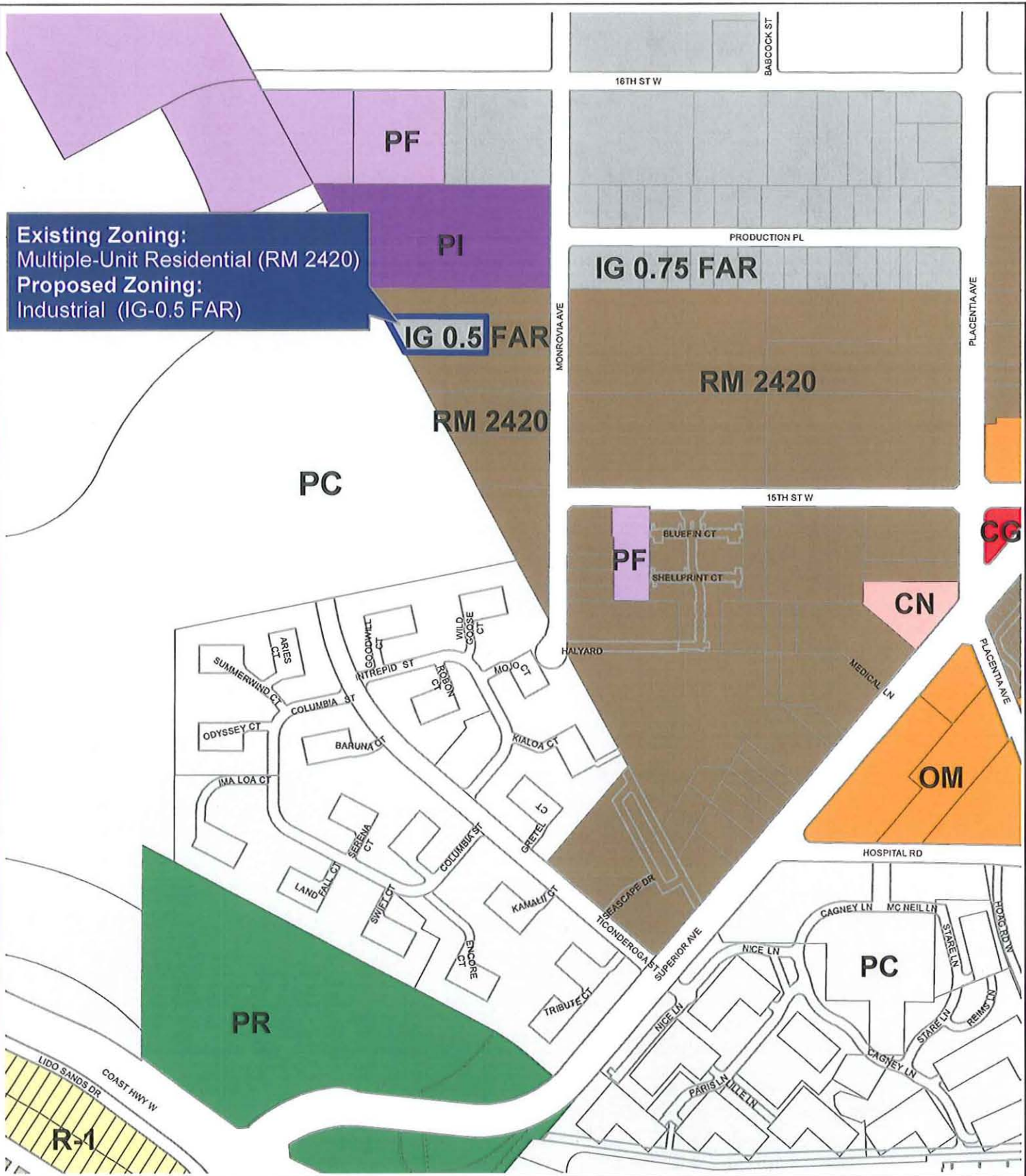


GP2011-005 (PA2011-082)
General Plan Amendment
 1537 Monrovia Avenue

0 250 500 Feet



Newport
life
 NEWPORT CALIFORNIA



CA2011-008 (PA2011-082) Zoning Code Amendment

1537 Monrovia Avenue

0 250 500 Feet



NEWPORT
Beach
CALIFORNIA

DRAFT RESOLUTION

With attachments
1539 Monrovia Avenue
(PA2011-105)

Exhibit A-
GP2011-006 and CA2011-009

ATTACHMENT No. PC 2

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING APPROVAL TO THE CITY COUNCIL AMENDMENTS TO THE LAND USE ELEMENT OF THE GENERAL PLAN AND THE ZONING CODE TO CHANGE THE LAND USE DESIGNATION FROM MULTI-UNIT RESIDENTIAL TO GENERAL INDUSTRIAL (IG-0.50) AND TO CHANGE THE ZONING DISTRICT TO IG-0.50 (INDUSTRIAL), FOR PROPERTY LOCATED AT 1539 MONROVIA AVENUE (PA2011-105)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. On October 7, 1979, the City Council annexed the County Triangle, portions of which were developed with industrial buildings and uses, and located at that time in the M-1-A Zoning District, on the property located at 1539 Monrovia Avenue.
2. On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update").
3. On January 28, 2008, the City Council adopted a new ordinance (Ordinance No. 2008-05) that established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until the finalization of the City's Local Coastal Plan (LCP), which occurred on July 14, 2009.
4. On October 25, 2010, the City Council Adopted a Comprehensive Update to the Zoning Code (Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The result of that action rendered numerous properties nonconforming, with existing commercial buildings and uses located within residential districts. In accordance with Ordinance No. 2008-05, mentioned above, those properties are subject to abatement.
5. An application was filed by Dvorak & Payne LTD, with respect to the subject property located at 1539 Monrovia Avenue requesting approval of amendments to the General Plan and the Zoning Code to change the land use from multi-residential to industrial-use.
6. The subject property is currently located within the Multi-Unit Residential (RM) Zoning District and the General Plan Land Use Element category is Multi-Unit Residential Land Use (RM).

7. The recommended change of the General Plan designation of 1539 Monrovia Avenue is from Multi-Unit Residential (RM) to General Industrial (IG-0.50).
8. The recommended change of the Zoning District designation of 1539 Monrovia Avenue is from Multi-Unit Residential (RM) to Industrial (IG- 0.50).
9. Council Policy A-18 requires that proposed General Plan amendments be reviewed to determine if a vote of the electorate would be required. If a project (separately or cumulatively with other projects over a 10-year span) exceeds any one of the following thresholds, a vote of the electorate would be required if the City Council approves the suggested General Plan Amendment: more than 100 peak hour trips (AM or PM), adds 40,000 square feet or more of non-residential floor area (current proposal is for an additional 24,821 square feet, when combined with GP2011-005 floor area will total 38,253 sq. ft.), or adds more than 100 dwelling units in a statistical area.
10. This is the second General Plan Amendment that affects Statistical Area A2 since the General Plan update in 2006. The cumulative results that include 80% of the increase of the prior amendment under consideration at 1537 Monrovia Avenue (GP2011-005) further reduces the number of dwelling units and increases the non-residential floor area result in an overall increase of 27.1 A.M. peak hour trips and an overall increase of 23.8 P.M. peak hour trips based on the nonresidential, commercial and residential housing trip rates reflected in Council Policy A-18. As none of the four thresholds that require a vote pursuant to Charter Section 423 are exceeded, no vote of the electorate is required.
11. A public hearing was held on July 21, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 2 (Replacement or Reconstruction).
2. The proposed amendments are exempt since they do not entail any significant alteration to the subject property and are essentially bringing the General Plan Land use Designations and Zoning Districts to be consistent with the existing use of the buildings and properties involved.
3. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges.

As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. FINDINGS.

1. The amendment will provide for continuation of existing uses that are compatible with the existing and future surrounding institutional uses (Carden Hall Private School and Coast Community College District).
2. The amendment is consistent with the goals and policies of the General Plan, in particular Policy LU 3.3, Opportunity for change, which will provide opportunities for improved development and enhanced environments for residents in the West Newport Mesa Area. The re-use of underperforming commercial and industrial properties for offices and other uses that support Hoag Hospital's medical activities, improvement of remaining industrial properties adjoining the City of Costa Mesa, accommodation of non-water marine-related industries, and will not conflict with the future development of residential in proximity to jobs and services.
3. The existing building and uses, and future development of the property affected by the amendments are consistent with the goals and policies of the General Plan, in particular, Policies LU 6.7.1 and LU 6.7.2, since the subject properties are currently developed with industrial buildings that can accommodate the type of small-scale incubator industries called for by Policy LU 6.7.1. The future use of the subject properties as boat and/or recreational vehicle storage is consistent with Policy LU 6.7.2, compatible with the abutting institutional uses, and consistent with the purpose and intent of the IG-0.50 zoning district of the Newport Beach Municipal Code.
4. The amendment will provide opportunities for small light industrial or office businesses to continue where there are limited numbers of available sites elsewhere in the City.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby recommends City Council approval of General Plan Amendment No. GP2011-006, changing the designation from Multi-Unit Residential (RM) to General Industrial (IG-0.50); and Code Amendment No. CA2011-009 changing the designation from Multi-Unit Residential (RM) to Industrial (IG-0.50), affecting 1539 Monrovia Avenue, Statistical Area A2, legally described as Portion of Lot 1015 (Attachment Exhibit A).

2. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Monrovia Ave Amendments (PA2011-105) including, but not limited to, General Plan Amendment No. GP2011-006 and Code Amendment No. CA2011-009. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicants shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicants shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

PASSED, APPROVED AND ADOPTED THIS 21st DAY OF JULY, 2011.

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

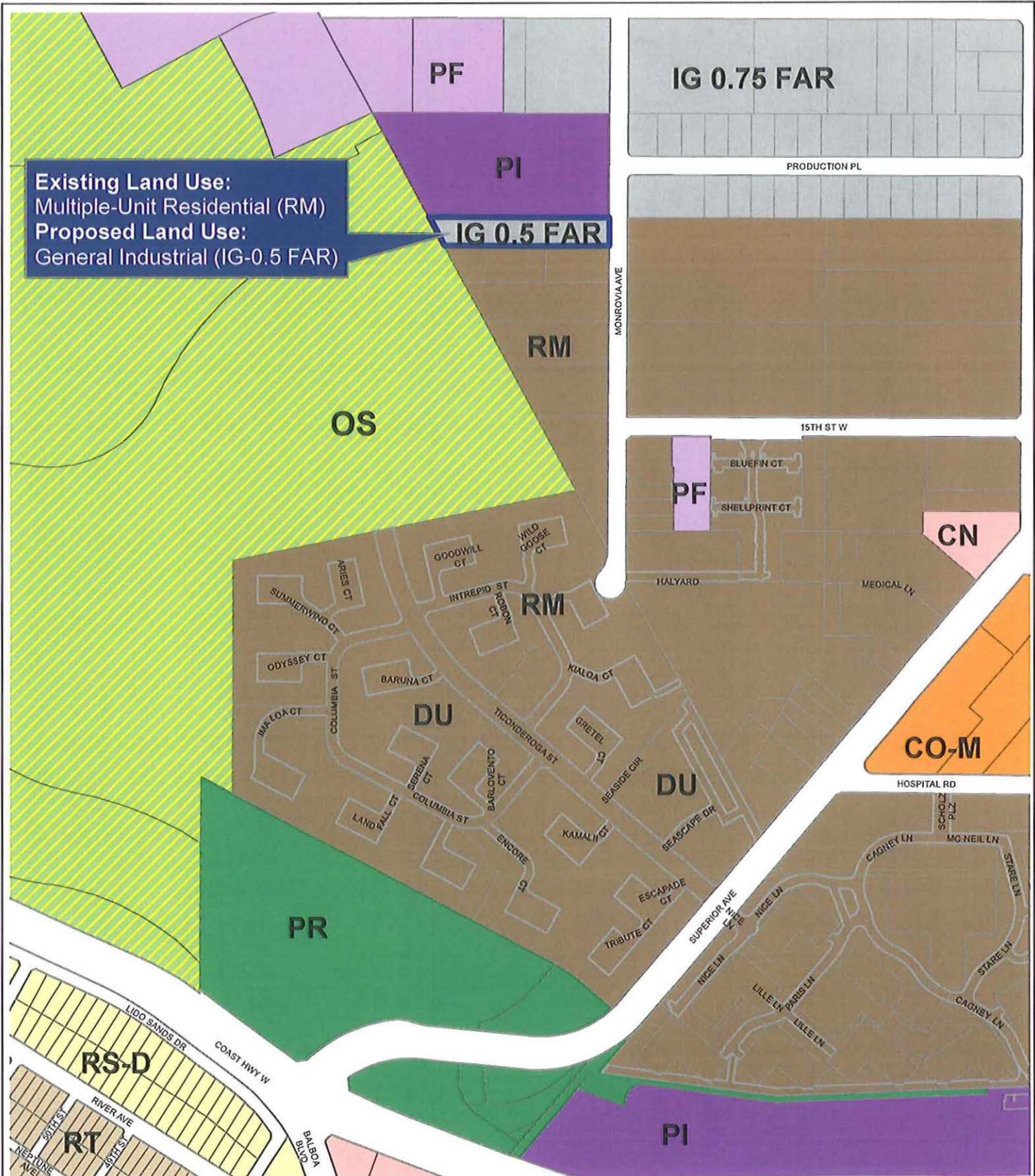
BY: _____
Charles Unsworth, Chairman

BY: _____
Bradley Hillgren, Secretary

EXHIBIT A-

**1539 Monrovia Avenue
(PA2011-105)**

GP2011-006 and CA2011-009



GP2011-006 (PA2011-105) General Plan Amendment

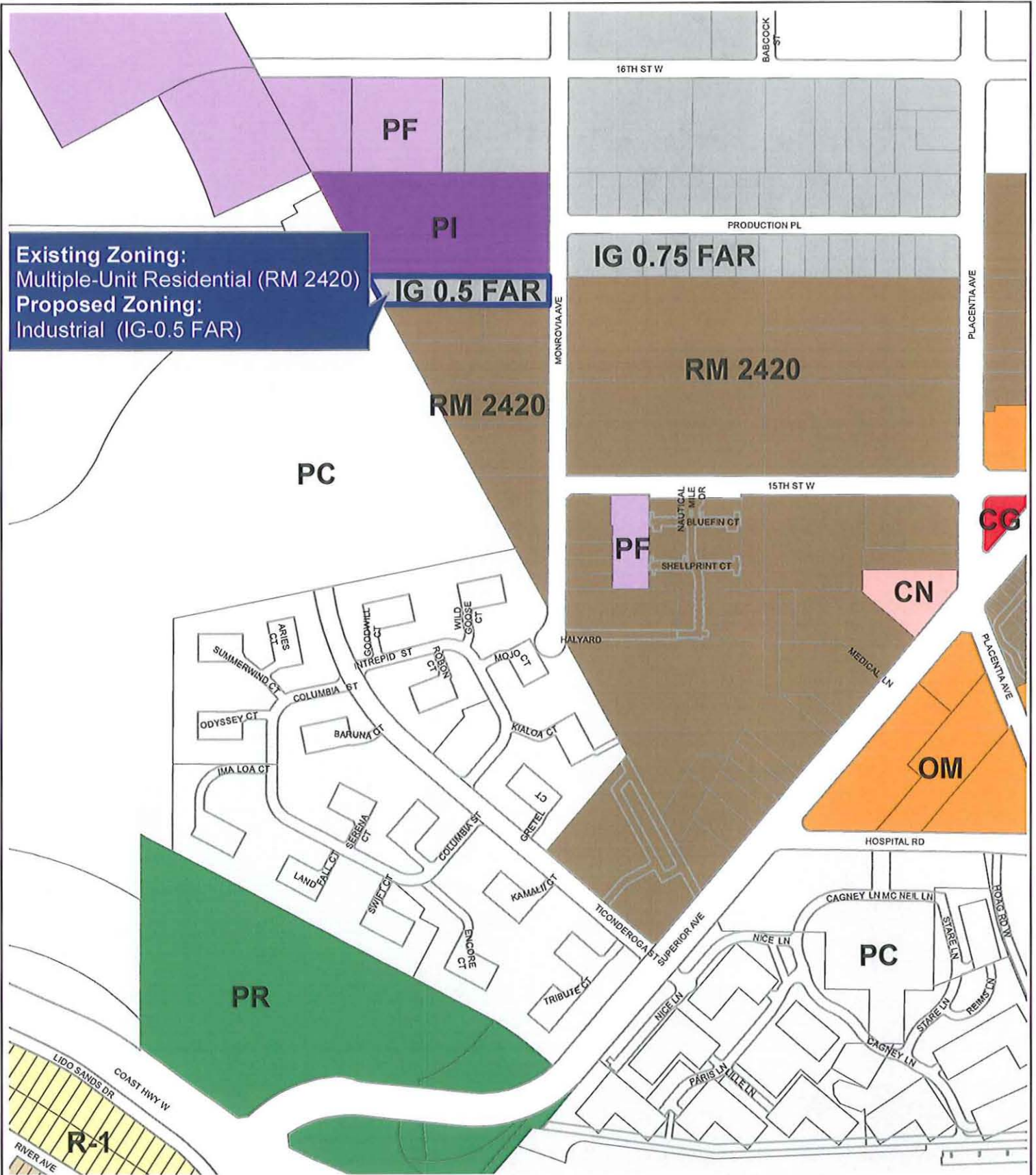
1539 Monrovia Avenue

0 250 500 Feet



Newport Info
Newport Information Systems

Existing Zoning:
Multiple-Unit Residential (RM 2420)
Proposed Zoning:
Industrial (IG-0.5 FAR)



CA2011-009 (PA2011-105) Zoning Code Amendment

1539 Monrovia Avenue

0 250 500 Feet



NEWPORT
Beach
CALIFORNIA

**DRAFT RESOLUTION
DENYING THE AMENDMENT REQUESTS**

1537 Monrovia Avenue
(PA2011-082)
GP2011-005 and CA2011-008

1539 Monrovia Avenue
(PA2011-105)
GP2011-006 and CA2011-009

ATTACHMENT No. PC 3

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING THE REQUEST TO AMEND THE LAND USE ELEMENT OF THE GENERAL PLAN AND THE ZONING CODE TO CHANGE THE LAND USE DESIGNATION FROM MULTI-UNIT RESIDENTIAL TO INDUSTRIAL GENERAL (IG-0.50) AND TO CHANGE THE ZONING DISTRICT TO IG-0.50 (INDUSTRIAL), FOR PROPERTIES LOCATED AT 1537 AND 1539 MONROVIA AVENUE (PA2011-082 AND PA2011-105)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. On October 7, 1979, the City Council annexed the County Triangle, portions of which were developed with industrial buildings and uses, and located at that time in the M-1-A Zoning District, on the properties located at 1537 and 1539 Monrovia Avenue.
2. On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update").
3. On January 28, 2008, the City Council adopted a new ordinance (Ordinance No. 2008-05) that established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until the finalization of the City's Local Coastal Plan (LCP), which occurred on July 14, 2009.
4. On October 25, 2010, the City Council Adopted a Comprehensive Update to the Zoning Code (Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The result of that action rendered numerous properties nonconforming, with existing commercial buildings and uses located within residential districts. In accordance with Ordinance No. 2008-05, mentioned above, those properties are subject to abatement.
5. Applications were filed by Allred Newport LLC and Dvorak & Payne LTD, with respect to the subject properties located at 1537 and 1539 Monrovia Avenue, respectively, requesting approval of amendments to the General Plan and the Zoning Code to change the land use from multi-residential to industrial-use.
6. The subject property is currently located within the Multi-Unit Residential (RM) Zoning District and the General Plan Land Use Element category is Multi-Unit Residential Land Use (RM).

7. The recommended change of the General Plan designation of 1537 and 1539 Monrovia Avenue is from Multi-Unit Residential (RM) to Industrial General (IG-0.75).
8. The recommended change of the Zoning District designation of 1537 and 1539 Monrovia Avenue is from Multi-Unit Residential (RM) to Industrial (IG).
9. A public hearing was held on July 21, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. A determination of compliance with the requirements of the California Environmental Quality Act is not required for projects that are denied.
2. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. FINDINGS.

1. Amendments to the General Plan are legislative acts. Neither the City nor State Planning Law set forth any required findings for either approval or denial of such amendments. The Planning Commission has determined that in this particular case the current General Plan designations are appropriate and a change is not warranted.
2. Code amendments are legislative acts. Neither the City Municipal Code nor State Planning Law set forth any required findings for either approval or denial of such amendments, unless they are determined not to be required for the public necessity and convenience and the general welfare. The Planning Commission has determined that in this particular case, that the current Zoning designation is appropriate and that a change is not necessary for the public necessity and convenience and the general welfare.
3. The existing nonresidential use is not consistent with the goals and policies of the Land Use Element of the General Plan, the Zoning District requirements or the Coastal Land Use Plan; and therefore will be subject to abatement in accordance with Ordinance No. 2008-05.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies the requests for General Plan Amendment No. GP2011-005, changing the designation from Multi-Unit Residential (RM) to Industrial (IG); and Code Amendment Nos. CA2011-008 changing the zoning designation from Multi-Unit Residential (RM) to Industrial (IG), affecting 1537 Monrovia Avenue, Statistical Area A2, legally described as Parcel 1 of Parcel Map 045/24.
2. The Planning Commission of the City of Newport Beach hereby denies the requests for General Plan Amendment No. GP2011-006, changing the designation from Multi-Unit Residential (RM) to Industrial (IG); and Code Amendment No. CA2011-009 changing the zoning designation from Multi-Unit Residential (RM) to Industrial (IG), affecting 1539 Monrovia Avenue, Statistical Area A2, legally described as Portion of Lot 1015.

PASSED, APPROVED AND ADOPTED THIS 21th DAY OF JULY, 2011.

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

BY: _____
Charles Unsworth, Chairman

BY: _____
Bradley Hillgren, Secretary

RELEVANT INFORMATION:

1537 Monrovia Avenue

FOR PA2011-082
GP2011-005
CA2011-008

ATTACHMENT No. PC 4



SUBJECT PROPERTY: 1537 MONROVIA AVENUE



SUBJECT PROPERTIES: 1537 & 1539 MONROVIA AVENUE



RELEVANT INFORMATION:

1539 Monrovia Avenue

FOR PA2011-105

GP2011-006

CA2011-009

ATTACHMENT No. PC 5

Attachment to Planning Permit Application (Zone Change) 1539
Monrovia Avenue, Newport Beach, CA., dated June 1, 2011.

This property has functioned as a successful industrial park since 1973. Because of the extremely narrow width of the lot-it is only 90 feet wide-along with a depth of 575 feet, it would be completely difficult to create an attractive and functional multi-unit residential development as required by the new zoning.

Present structure is a concrete tilt-up, single story structure, 24,000 square feet, that provides more than required code parking, landscaped borders, and an efficient, attractive location for up to 23 local companies.

This property, along with another small industrial landlocked property (1537 Monrovia) is a small island surrounded by educational facilities. We have Carden Hall, a private School, abutting one long property line, the new Community College campus on the other. Although our present use as a small industrial park is forgiving to the various problems inherent to the school use, i.e., playground noise, multi-unit residential on our property would be constantly subjected to these issues. Residential users would not be so understanding and I believe there would be constant tension and problems for the folks living on this 75 foot- wide sliver between two campuses.

Parking and traffic is going to be a major problem when the Community college is up and running. Because of its "State status", the college does not have to comply with Newport Beach parking standards and this area will be subject, I believe, to substantial parking stress. Also, Cardin Hall does create considerable congestion several times per day during student pick-up and delivery although it is managed by them very well.

Our existing building has a clean, contemporary presence that blends nicely with the existing school and will be compatible with the new one. Apartments would create a discordant island, freakishly narrow, and small.

With a minimum of problems, this location has provided scarce space for many business's that provide jobs and vitality for the community. We believe-given the pending envelopment by educational campuses-that the present use is the most feasible for this property.

Garcia, Jay

To: Garcia, Jay
Subject: FW: 1537-1539 Monrovia Applications

-----Original Message-----

From: Jim Ogle [mailto:jwogle@pacbell.net]
Sent: Wednesday, July 13, 2011 1:52 PM
To: Garcia, Jay
Cc: David Dvorak
Subject: Re: 1537-1539 Monrovia Applications

HI Jay- I called Carden Hall yesterday, they thought Mr. Jones was on vacation but would call his home to check. He has not called me, so he must be out of town.

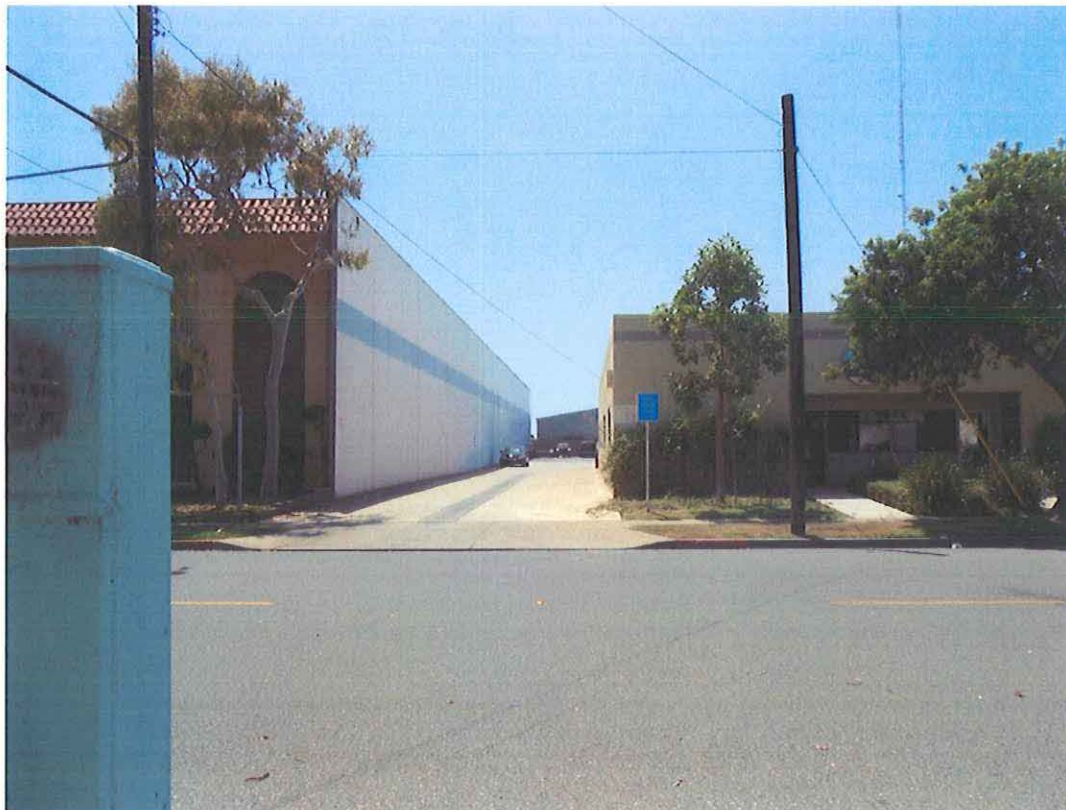
I have had a couple of phone conversations with Mr. Jones, regarding our application for a rezone back to General Industrial. He wasn't aware that our property had been rezoned to multi-residential. He expressed concern about the compatibility that a residential development would have on the school and how the school might create problems for the residents, such as schoolyard noise, class period bells and school functions, etc. He did state that our property and the school has coexisted peaceably for 40+ years, with no issues between our general industrial tenants and the school activities. He said he would be in favor of our property being rezoned to General Industrial to maintain the environment that has existed for the past 40 years.

Please let me know if you need anything else.

Jim Ogle
Ogle Real Estate Services
1570 E. Edinger Ave., #12
Santa Ana, CA 92705
714/558-7211 (o)
714/558-7850 (f)
jwogle@pacbell.net

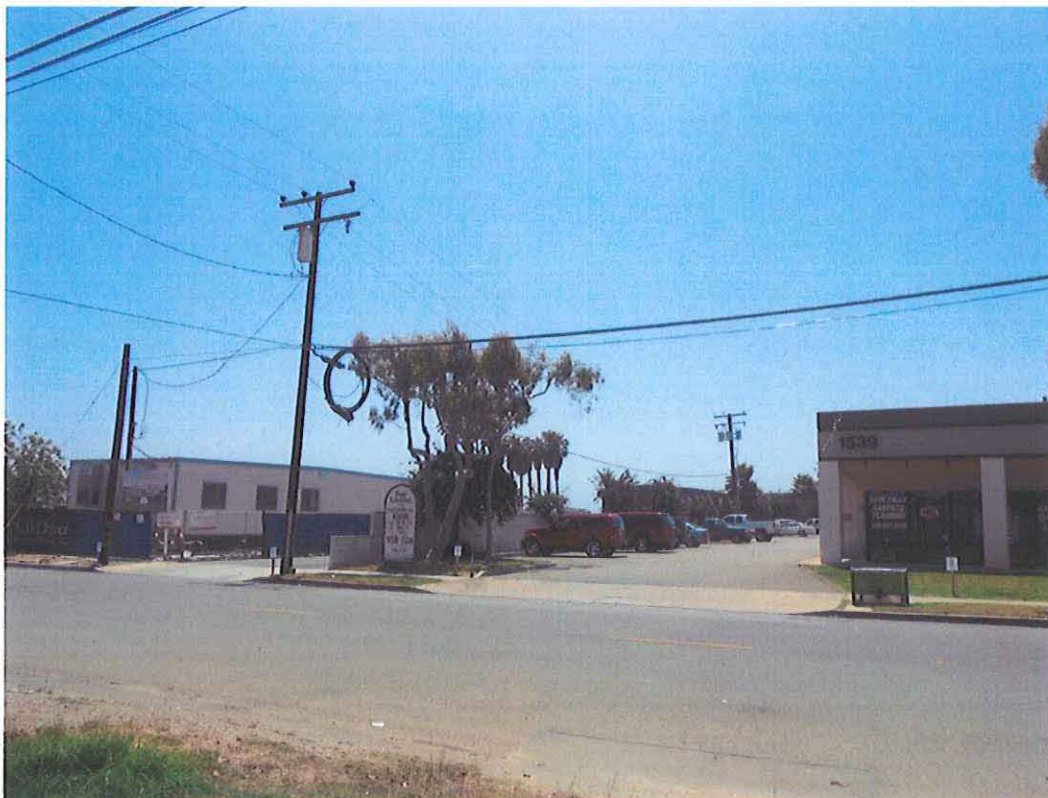


SUBJECT PROPERTY: 1539 MONROVIA AVENUE



CARDEN HALL PROPERTY: 1541 MONROVIA AVENUE

@ NORTHERLY BOUNDARY ADJACENT INDUSTRIAL PROPERTY



SUBJECT PROPERTIES: 1537 & 1539 MONROVIA AVENUE



CITY CHARTER SECTION 423 ANALYSIS

ATTACHMENT No. PC 6

Address	Existing Development	GP	Allowed Density	Allowed Intensity/floor area	Existing Traffic Land Use Description	Existing AM	Existing PM	Proposed GP	Proposed density	Proposed Intensity/Floor Area	Proposed Traffic Land Use Description	Proposed AM	Proposed PM	AM Change	PM Change	Total du changes	Total square footage changes
ACTION 1 APPROVAL (GP2011-005) WITHIN THIS STATISTICAL AREA A2																	
1537 Monrovia Avenue, APN 424-401-08	The Allred Property, 33, 580-square-foot lot developed with a two, light industrial use buildings	RM (2420)	13.0	0.0	#230 - Residential/Condominium Townhouse (0.44AM/0.54PM trips per unit)	5.7	7.0	IG, allows FAR 0.50 max	0	16,790.0	Industrial rate per Council Policy A-18 (1.0 AM & 1.0 PM trips per 1,000sf)	16.8	16.8	11.1	9.8	-13.0	16,790.0
80% of Proposed Intensity- FAR																	
										13,432.00		13.4	13.4	8.9	7.8	-10	13,432.00
ACTION 2 APPROVAL -GENERAL PLAN AMENDMENT NO. GP2011-006 - STATISTICAL AREA A2																	
1539 Monrovia Avenue, APN 424-401-06	The Dvorak Property, 49,642-square-foot lot developed with a single-story, multi-tenant, light industrial building.	RM (2420)	20.0	0.0	#230 - Residential/Condominium Townhouse (0.44AM/0.54PM trips per unit)	8.8	10.8	IG, allows FAR 0.50 max	0	24,821.0	Industrial rate per Council Policy A-18 (1.0 AM & 1.0 PM trips per 1,000sf)	24.8	24.8	16.0	14.0	-20.0	24,821.0
TOTAL FOR STATISTICAL AREA A2																	
			33.0	0.0		14.5	17.8		0.0	38,253.0		41.6	41.6	27.1	23.8	-33.0	38,253.0

Monrovia Avenue Amendments:

1537 Monrovia Ave, Allred Newport LLC Property (PA2011-082)

1539 Monrovia Ave, Dvorak & Payne LTD Property (PA2011-105)

Planning Commission
Public Hearing
July 21, 2011



CODE AMENDMENT SUMMARY

LOCATION:	GENERAL PLAN (GP):	ZONING (CA):
1537 MONROVIA AVENUE GP2011-005 & CA2011-008	RM (Multi-Unit Residential) to IG-0.50 (General Industrial)	RM (2420) (Multi-Unit Residential) to IG-0.50 (Industrial)
1539 MONROVIA AVENUE GP2011-006 & CA2011-009	RM (Multi-Unit Residential) to IG-0.50 (General Industrial)	RM (2420) (Multi-Unit Residential) to IG-0.50 (Industrial)

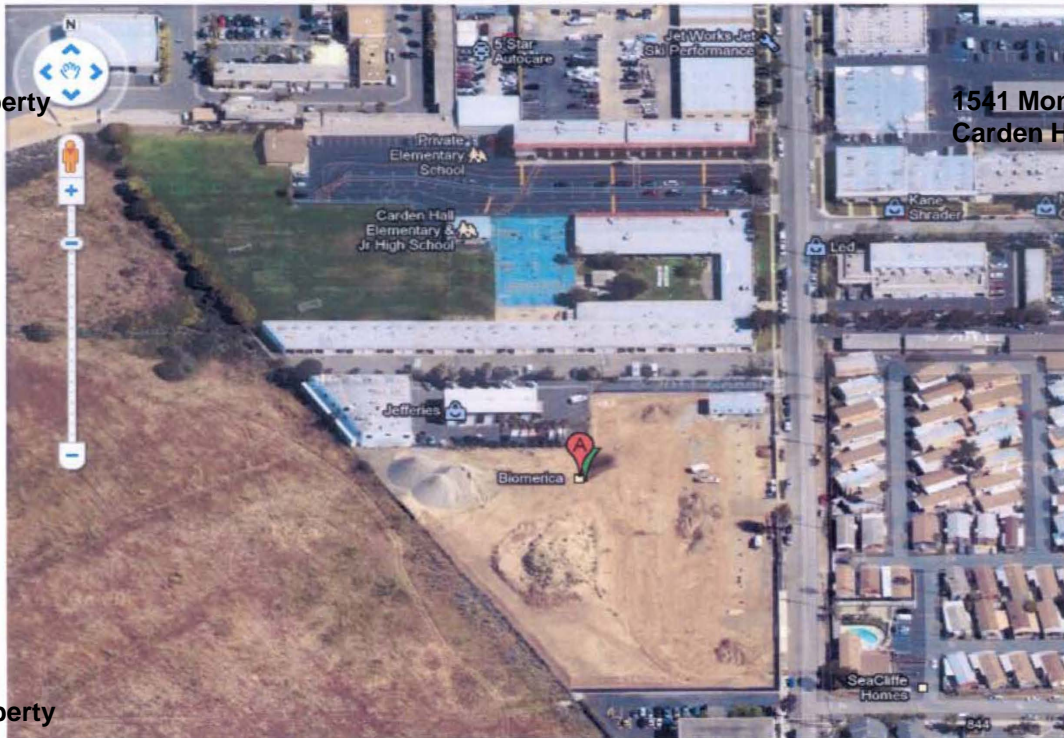


**SUBJECT PROPERTY:
1537 MONROVIA AVE,
LIGHT INDUSTRIAL BUILDINGS**



**SUBJECT PROPERTY:
1539 MONROVIA AVE,
LIGHT INDUSTRIAL BUILDING**

**1539 Monrovia Avenue
Dvorak & Payne LTD Property
GP2011-105**



**1541 Monrovia Avenue
Carden Hall**

**1537 Monrovia Avenue
Allred Newport LLC Property
GP2011-082**

**1535 Monrovia Avenue
Community College Project
Under construction.**

1539 Monrovia Avenue
GP2011-105

1541 Monrovia Avenue
Carden Hall

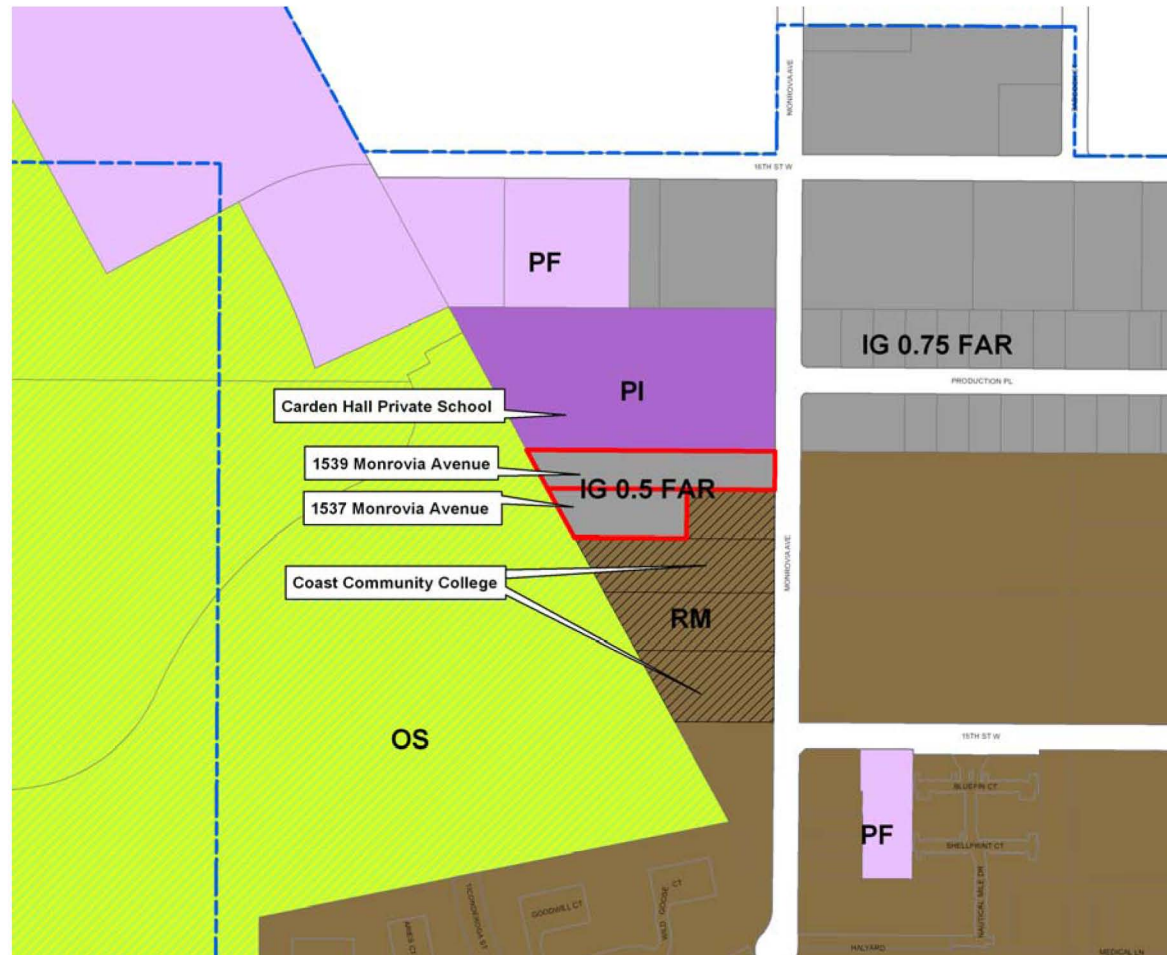
1537 Monrovia Avenue
GP2011-082

1535 Monrovia Avenue
Community College Project



VICINITY MAP

GENERAL PLAN DESIGNATIONS



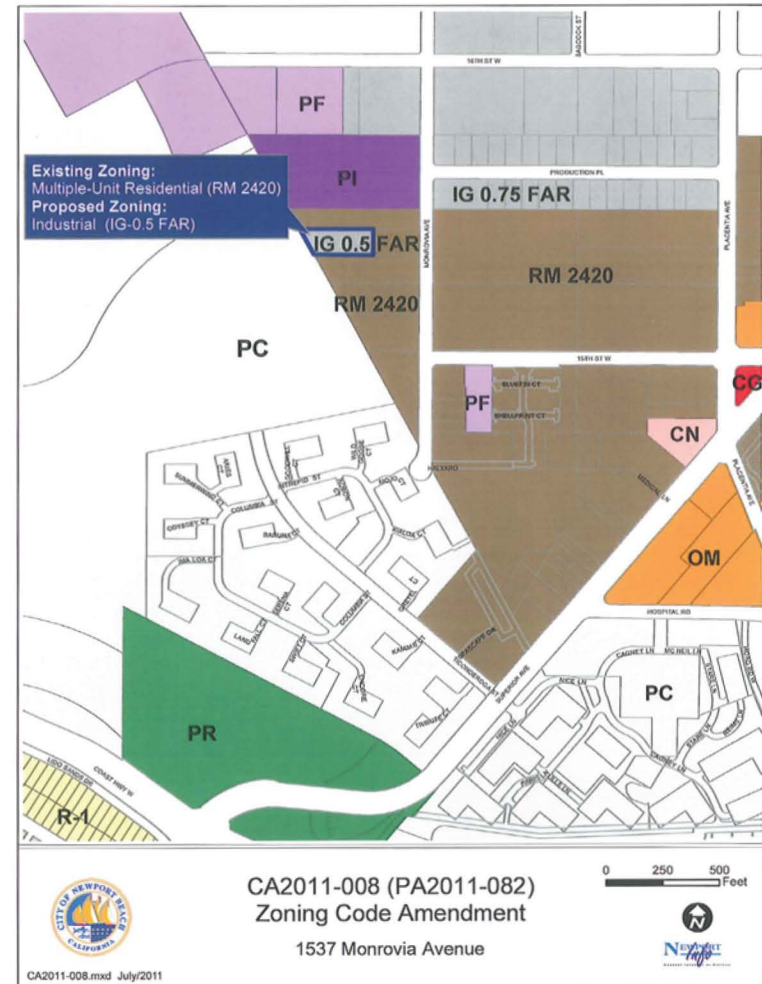
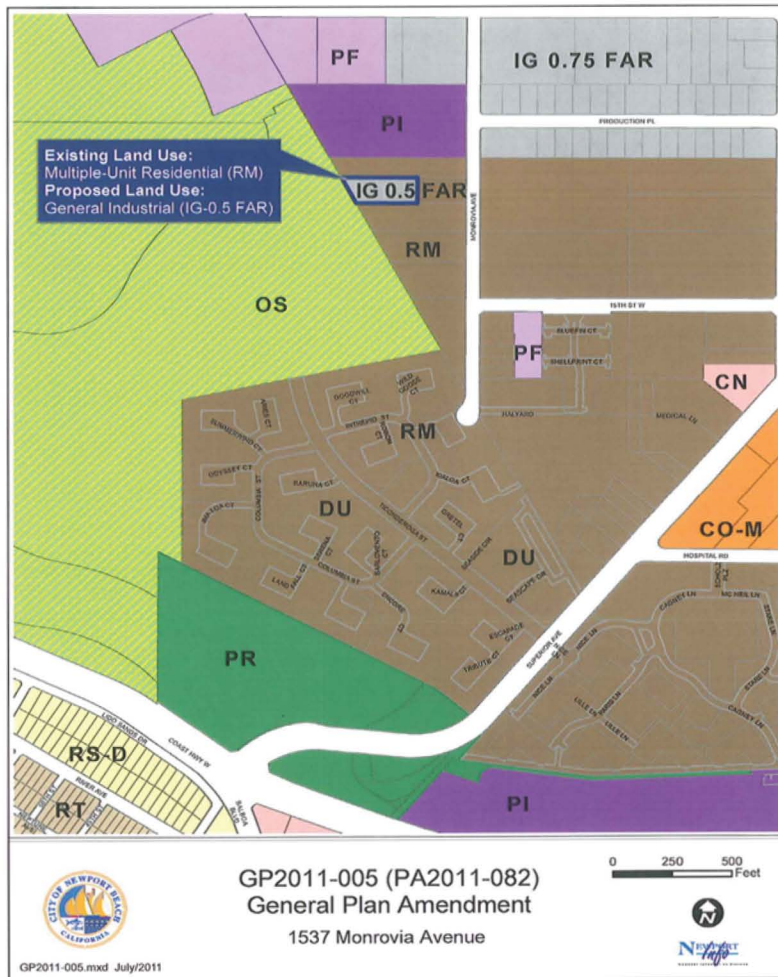
Recommended Level of Intensity

Industrial Use (0.50 FAR)				Parking	
		Lot Area	Maximum FAR	Minimum	
	1537 Ave Monrovia	33,580 sq. ft.	16,790 sq. ft. (0.50 FAR)	17 (16,790 sq. ft. @ 1/1,000)	
	1539 Ave Monrovia	49,642 sq. ft.	24,821 sq. ft. (0.50 FAR)	25 (24,821 sq. ft. @ 1/1,000)	
Total		83,222 sq. ft.	41,611 sq. ft.	42 spaces	

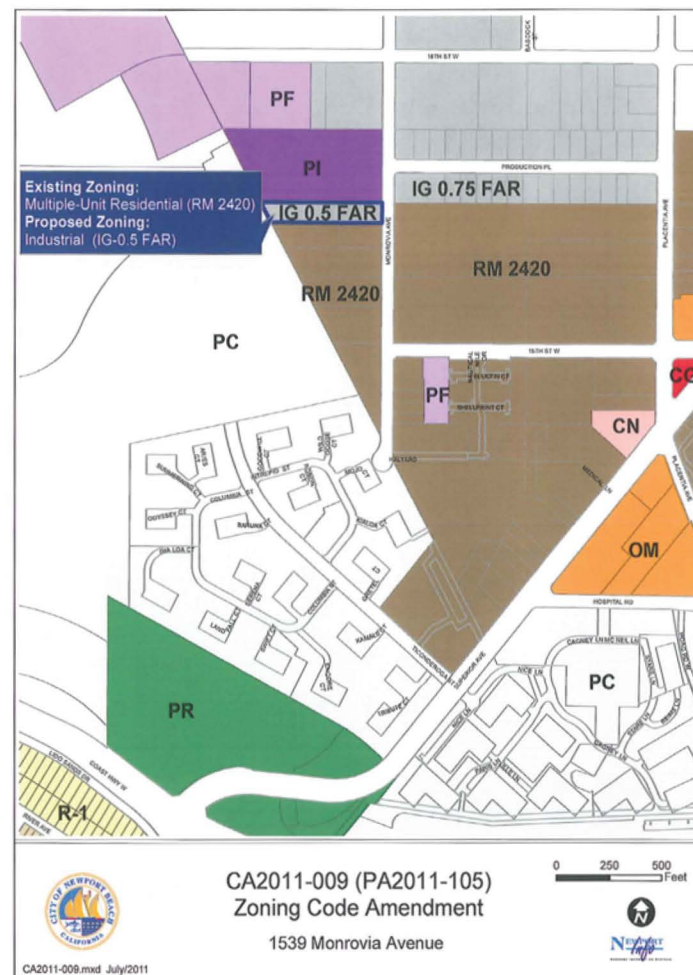
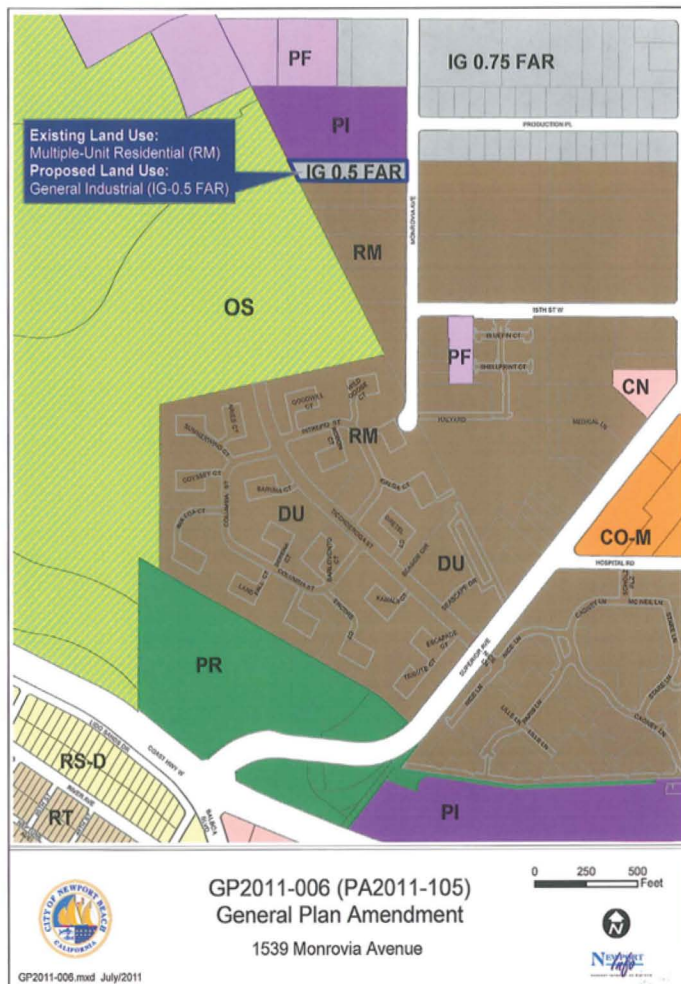
Section 423 Analysis Table

**Table 1: Charter Section 423 Analysis Summary
Statistical Area A2**

	Increased Floor Area	Increased A.M. Peak Hour Trips	Increased P.M. Peak Hour Trips	Increase in Allowed Dwelling Units
Proposed GP2011-005 1537 Monrovia Ave (Action 1)	16,790 sq. ft.	11.1	9.8	0
GP2011-005 is a minor amendment.				
GP2011-005 at 80%	13,432 sq. ft.	8.9	7.8	0
Proposed GP2011-006 1539 Monrovia Ave (Action 2)	<u>24,821 sq. ft.</u>	<u>16.0</u>	<u>14.0</u>	<u>0</u>
TOTALS (IG is permitted)	38,253 sq. ft.	24.9	21.8	0
GP2011-006 is a minor amendment.				



PC RESOLUTION EXHIBIT A – 1537 Monrovia Avenue



PC RESOLUTION EXHIBIT B – 1539 Monrovia Avenue